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COUNTERFEIT CURRENCY AND THE CRIMINAL LAW IN COMMERCIALISING SCOTLAND

CHLOË KENNEDY*

That cruel Bank, O how was I beguil'd?
Their Note was lawful, mine a Bastard child,
In shape and Features, and in Sense the same,
How then can their's [*sic*] be straight, and mine be lame?
Since they so resemble one another,
Why should mine not be honour'd as a Brother?
...
O is There not some blessed foreign Clime,
Where Forg'ry yet was never made a Crime?
I'll travel there, and carry on the Prank,
Till all the Earth become *John Currie's* Bank.¹

1 INTRODUCTION

When John Currie was banished for forging notes of the Bank of Scotland in 1728,² Scotland had just gained its second chartered bank, the Royal Bank of Scotland, and was very much a pre-industrial society.³ Yet the rhetorical questions posed in this broadside and the anxieties that underpin them speak, in an uncannily perspicacious way, to the experience of currency use, and misuse, in Scotland across much of the eighteenth and early nineteenth centuries. At this time, and in contrast to a number of other nations, Scotland was heavily reliant on paper money. Indeed, by the middle of the eighteenth century, specie (precious metal) had largely been dispensed with, meaning that making hand-to-hand payment with silver or gold coins was unusual,

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1 "The Forger's Doom: or, John Currie's last Speech" (1728) (<https://digital.nls.uk/broadsides/view/?id=15805>).

2 Signet Library Session Papers 1;11. A handwritten note on this broadside suggests that he was spared capital punishment (*ibid.*).

3 S. G. Checkland, *Scottish Banking: A History, 1695–1973* (Glasgow and London, 1975), Part 1.

and banks did not typically provide liquidity on demand.⁴ This system was made possible by various features, the most relevant of which for present purposes were the existence of small-value notes and the large number of banks,⁵ often largely unregulated, issuing these notes across various parts of the country.⁶ Describing the situation in 1776, Adam Smith wrote that “the business of this country is almost entirely carried on by the means of the paper of those different banking companies, with which purchases and payments of all kind are commonly made. Silver very seldom appears, except in the change of a twenty-shilling bank note, and gold still seldomer”.⁷ Notwithstanding important changes in the make-up and business of Scottish banks that took place from the second quarter of the nineteenth century, some of which are explored below, it remained common to rely on small notes; and note issue remained subject to little formal regulation until the middle of the century.⁸

As John Currie’s speech presages, such a system raised difficult questions about the optimal levels of note issue and regulation.⁹ Perhaps even more fundamentally, it raised questions about authenticity, specifically how it could be ensured and protected. Yet, despite the centrality of this problem for a rapidly commercialising nation, there has been little research into how it was managed. How often crimes involving counterfeit money were committed, by whom, how they were prosecuted and how they were punished all remain remarkably understudied.¹⁰ As a contribution towards rectifying this situation, this article addresses each of these questions in turn, concentrating on the period that witnessed what can loosely be described as the commercialisation of Scotland. While it is clear that the eighteenth century was an important time in the development of Scottish banking during which a number of forgeries occurred,¹¹ the temporal parameters of this study have been drawn at 1788–1850. This decision is partly informed by the availability and accessibility of

4 Ibid., pp. 76, 83, 91. The banks worked to maintain this arrangement by meeting such requests from their customers with disapproval and accusations of disloyalty (Checkland, p. 184).

5 Checkland, *Scottish Banking*, Part 2.

6 Whereas in England notes below the value of £5 were prohibited other than during the bank restriction of 1797–1821, the £1 note was introduced in Scotland from 1704. Another difference between the jurisdictions was that the Bank of England Act of 1709 stated that no group of men larger than six could act as bankers in England. Though qualified by the Bank Act 1826, which allowed joint-stock banking outside a twenty-six-mile radius from London, no such monopoly existed in Scotland (Checkland, *Scottish Banking*, pp. 38, 46, 436).

7 William B. Todd (ed.), *The Glasgow Edition of the Works and Correspondence of Adam Smith*, Vol. 2: *An Inquiry into the Nature and Causes of the Wealth of Nations*, Vol. 1 (Oxford, 1975), p. 297.

8 Checkland, *Scottish Banking*, pp. 275, 319. The position in respect of coins seems to be less well documented (see section 4).

9 Both the small-notes mania of the 1750s–60s and the collapse of the Ayr Bank in 1772 had involved a proliferation of bank notes (Checkland, *Scottish Banking*, pp. 104–39).

10 For insights into the punishment of forgery, including forged currency, in England, see Deirdre Palk, “‘Fit objects for mercy’: gender, the Bank of England and currency criminals, 1804–1833”, *Women’s Writing* 11(2) (2004), 237–58; Philip Handler, “Forgery and the end of the ‘Bloody Code’ in early nineteenth-century England”, *Historical Journal* 48(3) (2005), 683–702; Randall McGowen, “From pillory to the gallows: the punishment of forgery in the age of financial revolution”, *Past & Present* 165 (1999), 107–40; Randall McGowen, “Managing the gallows: the Bank of England and the death penalty, 1797–1821”, *Law and History Review* 25(2) (2007), 241–82.

11 David Hume, *Commentaries on the Law of Scotland Respecting the Description and Punishment of Crimes* (Edinburgh, 1797), ch. V; Rachel E. Bennett, *Capital Punishment and the Criminal Corpse in Scotland, 1740–1834* (Cham, Switzerland: Palgrave Macmillan, 2018), p. 50; Checkland, *Scottish Banking*, p. 186.

sources; as is explained more fully in the following section, the quantitative methods used depend on an even provision of online catalogues and precognitions, neither of which are available for the bulk of the eighteenth century.¹²

Beyond these pragmatic concerns, however, the period chosen has been selected because of its significance for the commercialisation of Scotland. It coincides with the suspension of specie that was imposed, in February 1797, in response to the depletion of Bank of England reserves that had begun at the onset of the Napoleonic wars and had worsened through the persistent threat of French invasion. The legislation that exempted the Banks of England and Ireland from converting paper money to specie did not apply to Scottish banks, but, in spite of this, the Scottish bankers agreed to suspend payments as well.¹³ The result was that whatever silver and gold had been in circulation was hoarded up, creating panic over the lack of the small-denomination silver coins that were necessary for street trading and to pay the wages of the poorest people in the nation.¹⁴ In the face of this dearth, tokens substituting for money began to appear, and one-pound notes were torn into quarters to be passed around as currency. Some relief came in April 1797, when the banks in Scotland were granted temporary permission to issue notes smaller than one pound.¹⁵ Following this, notes as small as one shilling entered into circulation, serving a valuable role as a replacement for silver but also providing forgers with new opportunities.¹⁶ As an advertisement from March 1800 said of these forgeries, punishing them was an act of justice to the public but also an act of humanity to the poor who would be most likely to suffer by the fraud.¹⁷ Although the authority to issue these very small notes ended in December 1800, they appear to have remained in circulation years later.¹⁸ Writing in 1803, Scott Moncrieff, banker and joint agent at the first branch of the Royal Bank of Scotland in Glasgow, complained of a “hash of small dirty notes” that were “enough to make one sick”.¹⁹

In spite of its illegality, the system of inconvertibility became orthodox in Scotland until the period of restriction ended in 1821²⁰ – and, as is discussed further in section 4, during this time Britain as a whole suffered from a scarcity of small-value coins.²¹ This connection between notes and coins – a relationship that was thought by David

12 W. W. J. Knox, “Homicide in eighteenth-century Scotland: numbers and theories”, *Scottish Historical Review* 94 (2015), 48–73, at 52.

13 Checkland, *Scottish Banking*, p. 67.

14 George Selgin, “Scottish banks and the bank restriction, 1797–1821”, Part 2 (<https://www.cato.org/blog/scottish-banks-bank-restriction-1797-1821-part-2>); Checkland, *Scottish Banking*, p. 221.

15 The Bank Notes (Scotland) Act 1765, passed following the small-notes mania, prohibited notes smaller than £1.

16 The smaller-than-usual notes (£1 and £2) that were introduced in England during the period of restriction also created new opportunities for counterfeiters there (McGowen, “Managing the gallows”, at 244).

17 “Advertisements and notices”, *Caledonian Mercury* (17 March 1800), offering a reward for information about counterfeit five-shilling notes in Glasgow. According to Checkland (*Scottish Banking*, p. 186), all “respectable banks” paid their forgeries.

18 George Selgin, *Good Money: Birmingham Button Makers, the Royal Mint, and the Beginnings of Modern Coinage, 1775–1821* (Ann Arbor, MI, 2008), p. 214.

19 Checkland, *Scottish Banking*, p. 223. Having handled a forged 21-shilling note from 1804 in the National Records of Scotland, I can confirm that it was very tattered and worn.

20 *Ibid.*

21 Selgin, *Good Money*, especially pp. 212–14.

Hume and Adam Smith to be reciprocal²² – is one of the reasons I have focused on offences involving counterfeit coins as well as those involving counterfeit notes. Despite the scant information that is available about coin circulation in Scotland, and the apparent preference for paper money,²³ the creation and use of so-called base coin is an important part of the story. In contrast, with the exception of some discussion in section 4, bills of exchange and other forms of paper credit have largely been excluded from the analysis. Although they performed some of the same functions as paper currency, they were in important senses quite different.²⁴

By 1850, the cut-off point of this study, Scottish banks could no longer issue notes entirely at their own discretion and were instead confined to creating a determinate amount of note issue that was unbacked by gold.²⁵ Other shifts in the methods and modes of banking, such as the rise of joint-stock banking, make 1850 a transition point and any examination of the period that follows worthy of separate treatment.²⁶ Furthermore, and more importantly for current purposes, by 1850 there had been huge changes in population size and distribution, as well as in economic and social conditions. As has been well documented, there was a dramatic increase in the number of people living in large Scottish towns from the 1750s, and between 1801 and 1831 population growth was happening faster than anywhere else in Europe.²⁷ The first half of the nineteenth century was also when Scotland experienced large-scale industrialisation and the volatile economic consequences of this, the full effects of which hit between 1820 and 1850.²⁸ At this time, there was also a notable rise in Irish immigration to the west of Scotland, mainly Lanarkshire and Renfrewshire, where living conditions were already very poor.²⁹ As a consequence of this rapid growth and uneven distribution of wealth,³⁰ by the middle of the century Scotland,

22 Checkland, *Scottish Banking*, pp. 250, 264.

23 The battle to retain the Scottish £1 note in 1826 is a good example of this (“Abolition of the L1 [*sic*] bank notes”, *Caledonian Mercury* (25 February 1826); “County of Edinburgh meeting”, *Caledonian Mercury* (23 February 1826); “Sir Walter Scott and the Scottish bank notes”, *The Inverness Courier, and General Advertiser for the Counties of Inverness, Ross, Moray, Nairn, Cromarty, Sutherland, and Caithness* (7 June 1826)).

24 The main differences were the extent of their use and the nature of the obligations they created. See J. R. McCulloch, “Distinction between bills of exchange and paper-money” (1832), in Mary Poovey, *The Financial System in Nineteenth-Century Britain* (Oxford, 2003), p. 49.

25 Bank Notes (Scotland) Act of 1845.

26 Checkland, *Scottish Banking*, p. 398 and Parts 4, 5 and 6.

27 “Introduction”, in T. M. Devine and R. Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830* (Edinburgh, repr. 1999), p. 7; T. M. Devine, “Urbanisation”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 31.

28 R. J. Morris, “Urbanisation and Scotland”, in W. Hamish Fraser and R. J. Morris (eds), *People and Society in Scotland: Volume 2 1830–1914* (Edinburgh, 1990), p. 85.

29 This was especially pronounced in the 1840s. Ben Braber, “Immigrants”, in T. M. Devine and Jenny Wormald (eds), *The Oxford Handbook of Modern Scottish History* (Oxford, 2012), p. 492; Devine, “Urbanisation”, p. 43.

30 A study of wealth in Scotland conducted in 1867 revealed that less than 1% of the population received a quarter of the national income, and that just over 8% of the population received 46% of the income (W. W. Knox, *A History of the Scottish People: Summary of Economy and Society in Scotland 1840–1940*, ch. 5, “Poverty, income and wealth in Scotland 1840–1940”, SCRAN, available online at https://www.scran.ac.uk/scotland/pdf/SP2_5Income.pdf, p. 7). The Knox text is based here (as acknowledged in his bibliography) on T. C. Smout, *A Century of the Scottish People 1830–1950* (London, 1986), pp. 110–11; figures in the table are from R. Dudley Baxter, *National Income of the United Kingdom* (London, 1867), p. 56.

and especially Glasgow, was experiencing serious welfare and social crises that would not even begin to be addressed until the following decade.³¹

These two facets of the commercialisation of Scotland – the “dizzy sense of opportunity”³² and the harsh reality that the spoils of these opportunities would not extend to everyone – are what make the period chosen so apt for a study of counterfeit currency crime. As another broadside relating to John Currie shows, these features were part of the landscape from at least the eighteenth century: his motivation is described as “to grow great”, and he is depicted as declaring that he is now “far above, the rank of Lairds” while at the same time observing that “[t]he want of cash keeps people low”.³³ But, by the nineteenth century, things had escalated such that, as Mary Poovey puts it, “this [financial] system inspired both grandiose fantasies about success and acute anxieties about failure and fraud”.³⁴ As I argue in the remaining sections of this article, using a mix of qualitative and quantitative analysis, the changes in working and economic conditions and the shifts in currency usage that took place in this turbulent period of Scottish history are vital to understanding both the rate and patterns of criminal offending and the legal responses that these generated. Indeed, the broader argument of this article is that no aspect of the way this conduct was dealt with via the criminal law can be understood in isolation: each aspect of the phenomenon forms part of a mutually informing explanatory nexus.

2 SOURCES AND METHOD

The qualitative analysis in this article is fairly self-explanatory and draws on a selection of primary and secondary sources, including newspapers, journals, broadsides, institutional and other juristic writings, and “informations” – written arguments submitted by advocates, at the request of the court, when difficult questions of law or relevancy arose.³⁵ The quantitative analysis, which is offered partly in recognition of the general deficit of this kind of work in legal history³⁶ and partly to add to the existing work relating to Scotland,³⁷ requires a little more discussion.

31 Devine, “Urbanisation”, p. 47; R. A. Houston, “The demographic regime”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 16.

32 Deborah Simonton, “Work, trade and commerce”, in Lynn Abrams and Eleanor Gordon (eds), *Gender in Scottish History since 1700* (Edinburgh, 2012), p. 7, quoting Smout, *A History of the Scottish People*.

33 <https://digital.nls.uk/broadsides/view/?id=15806>

34 Poovey, *The Financial System in Nineteenth-Century Britain*, p. 1.

35 W. Bell, *A Dictionary and Digest of the Law of Scotland, with Short Explanations of the Most Ordinary English Law Terms* (Edinburgh, 1838), p. 444.

36 Daniel Klerman, “Quantitative legal history”, in Markus D. Dubber and Christopher Tomlins (eds), *Oxford Handbook of Legal History* (Oxford, 2018), pp. 343–56.

37 Twenty-five years ago, Ian Donnachie began some important quantitative analysis of forgery, including counterfeit currency, but this was self-confessedly only a starting point (Donnachie, “The darker side: a speculative survey of Scottish crime during the first half of the nineteenth century”, *Scottish Economic and Social History* 15(1) (1995), 5–24; Donnachie, “The convicts of 1830: Scottish criminals transported to New South Wales”, *Scottish Historical Review* 65 (1986), 35–47, which notes that counterfeiting cash is a major offence that had not, at the time of writing, been considered). Since then, deception offences have attracted none of the attention that has been afforded to homicide and other crimes (e.g. Peter King, “Urbanization, rising homicide rates and the geography of lethal violence in Scotland, 1800–1860”, *History* 96:3 (July 2011), 231–59; Knox, “Homicide in eighteenth-century Scotland”; Anne-Marie Kilday, *Women and Violent Crime in*

Due to time pressures and the availability of records, in this study I have focused solely on cases that came before the High Court of Justiciary, Scotland's most senior criminal court, when it sat in Edinburgh and went on circuit in the west (Glasgow, Stirling and Inveraray), south (Ayr, Dumfries and Jedburgh) and north (Perth, Aberdeen and Inverness). It is important to note, however, that other courts would also hear forgery cases, such as the Court of Session, Scotland's most senior civil court.³⁸ It is clear, too, that sheriff and police courts were also trying offences relating to counterfeit currency. As David Barrie and Susan Broomhall have found, police courts would hear cases involving the use of "illegal bills" in commercial transactions,³⁹ but not without controversy. Due to the perceived seriousness of crimes like forgery, there was some resistance to superintendents – with their limited powers to punish – prosecuting these crimes.⁴⁰ My own study has revealed several accused who had previous convictions from the sheriff court for uttering base coin,⁴¹ and a couple who had sheriff court convictions for falsehood and fraud.⁴² Newspaper reports confirm that police courts punished offences involving counterfeit coins⁴³ but also sometimes remitted these cases, as well as cases involving forged notes, to the sheriff court.⁴⁴ The extent to which these courts dealt with counterfeit currency offences, the reasons governing jurisdictional selection, and how the answers to these questions changed with the growth of summary jurisdiction⁴⁵ would require further work to ascertain.

Enlightenment Scotland (Woodbridge, 2007); Anne-Marie Kilday, "Maternal monsters: murdering mothers in south-west Scotland", in Y. G. Brown and R. Ferguson (eds), *Twisted Sisters: Women, Crime and Deviance in Scotland since 1400* (East Linton, 2003), pp. 156–79; Anne-Marie Kilday, "The barbarous north? Criminality in early modern Scotland", in Devine and Wormald (eds), *Oxford Handbook of Modern Scottish History*, pp. 386–401; Anne-Marie Kilday, "Hell-raising and hair-raising: violent robbery in nineteenth-century Scotland", *Scottish Historical Review* 92 (2013), 255–74; Anne-Marie Kilday, *Crime in Scotland 1660–1960: The Violent North?* (Abingdon, 2018); P. T. Riggs, "Prosecutors, juries, judges and punishment in nineteenth-century Scotland", *Journal of Scottish Historical Studies* 32 (2010), 166–89).

- 38 It seems that by the mid-eighteenth century this court would only hear cases when the proof was indirect and would remit the case to the Justiciary Court when a sentence of death was considered appropriate (David Hume, *Commentaries on the Law of Scotland Respecting Crimes*, vol. 1 (Edinburgh, 1844), pp. 162–4).
- 39 David G. Barrie and Susan Broomhall, *Police Courts in Nineteenth-Century Scotland, Volume 1: Magistrates, Media and the Masses* (Farnham, 2014), p. 178.
- 40 David G. Barrie and Susan Broomhall, "Public men, private interests: the origins, structure and practice of police courts in Scotland, c. 1800–1833", *Continuity and Change* 27(1) (2012), 83–123, at 103.
- 41 E.g. Janet Brown, tried for uttering base coin in 1839 (JC26/1839/527).
- 42 E.g. Alexander McFarlane, tried for falsehood, fraud and wilful imposition in 1845 (JC26/1845/388).
- 43 E.g. Margaret Burrows and others, tried for possessing base money ("Police court", *Caledonian Mercury* (15 July 1819)), and an unnamed girl for passing a counterfeit coin ("Police", *Caledonian Mercury* (29 July 1824)).
- 44 E.g. William Palmer, tried for making base coin ("Police", *Caledonian Mercury* (24 October 1812)), John Macfarlane and others, tried for the same crime ("Police", *Caledonian Mercury* (1 March 1813)), and an "extensive" forgery upon the "Glasgow bank" involving £1 and £5 notes ("Police court", *Caledonian Mercury* (8 August 1822)). A case of passing a bad shilling was dealt with by the sheriff court directly in 1850 ("Sheriff criminal court", *The Fife Herald, Kinross, Strathearn and Clackmannan Advertiser* (21 March 1850)). Examples of the sheriff court hearing other kinds of forgery include the trials of William Roy and John Stormont ("News", *Elgin Courant, and Morayshire Advertiser* (15 June 1848), and "Sheriff criminal court", *The Fife Herald, Kinross, Strathearn and Clackmannan Advertiser* (15 June 1848)).
- 45 On which see Lindsay Farmer, *Criminal Law, Tradition and Legal Order: Crime and the Genius of Scots Law, 1747 to the Present* (Cambridge, 1997).

Given my focus, the data for this study was generated through online searches of the National Records of Scotland (NRS) holdings that relate to the business of the High Court of Justiciary during the period under consideration, specifically the minute books (JC8), the north circuit minute book (JC11), the south circuit minute book (JC12), the west circuit minute book (JC13), the books of adjournal (JC4), the process papers (JC26) and the Crown Office precognitions (AD). While the majority of these sources record the details of trials that occurred, the precognitions record the details of allegations of crimes, so they represent an impression of the rate at which crimes were investigated rather than prosecuted.⁴⁶ Since I have relied on both kinds of source, I have aimed to avoid double counting by matching precognitions to their corresponding trial records where possible. Similarly, when an accused was outlawed for failing to appear but was then later tried,⁴⁷ or when a trial was postponed and then continued at a later date, I have aimed only to include the concluded trial within my sample.

The terms used in conducting these searches were: stellionate, fraud/fraudulent/fraudulently, falsehood, wilful imposition, forgery/forged, swindling/swindle, uttering/utter, bill, note, coin, embezzlement, cheat, and breach of trust. Although the focus of the study is counterfeit currency offences, in places comparisons are drawn with other offences that could broadly be described as involving deception (or, more accurately in the case of embezzlement, dishonesty).⁴⁸ Insofar as offences involving counterfeit currency can be considered as offences against trade, it is worth noting that I did not search for the many other diverse offences against trade, such as tampering with food; usury; or false weights, measures and stamps. I did, however, consult Archibald Alison's *Principles of the Criminal Law of Scotland*⁴⁹ and the first and last editions of David Hume's *Commentaries on the Law of Scotland Respecting (the Description and Punishment of) Crimes*⁵⁰ on the currency offences that are the main focus of this article and included the small number of cases (seven) that had not appeared in the NRS catalogue search. Since Scottish criminal law case reporting began during the period under examination, I also searched Westlaw for "forgery", "uttering", "coin" and "note" to identify any cases that had not appeared in the NRS catalogue and to obtain further information on specific cases.⁵¹ No new entries appeared; indeed, a number of the cases that appear in the NRS catalogue are unreported.

There are, of course, limitations to this study which should be borne in mind. The first is the general problem of unreported crime, which affects how representative any survey of crime is but raises particular issues in the context of historical studies due to changes in how crimes are detected and reported.⁵² The second is that this study

46 Donnachie, "The darker side", at 7.

47 *Laws of Scotland: Stair Memorial Encyclopaedia*, vol. 5 (Crime), p. 309.

48 For ways of categorising the complex range of offences within this area of Scots law, see James Chalmers and Fiona Leverick (eds), *Gordon's The Criminal Law of Scotland, Volume II*, 4th edn (Edinburgh, 2016), ch. 25; Brian Gill, *Crime of Fraud: A Comparative Study* (unpublished PhD thesis, University of Edinburgh, 1975).

49 Edinburgh, 1832.

50 Edinburgh, 1797 and 1844.

51 Serial reporting began in 1819, but unbroken coverage only started in 1835 (D. M. Walker, *A Legal History of Scotland*, vol. 6 (Edinburgh, 2001), p. 9).

52 See Kilday, "Hell-raising and hair-raising", at 259–60, for discussion of these points.

is best described as an example of metadata analysis;⁵³ and, as such, it is possible that detailed consideration of the contents of each set of papers located via the search (and perhaps beyond) would augment, or even qualify, the findings offered here. For example, the search yielded 613 trials or precognitions that refer either to forgery or to uttering in general terms or in connection with a writing or document. Unlike the entries that refer explicitly to the kind of document – forged notes, cheques or bills of exchange, for example – no further information is provided, so it is possible that some of these cases might involve counterfeit currency. Furthermore, consulting the contents of the precognition papers is likely to shed additional light on the economic and social position of the individuals accused of these crimes, beyond that which is provided by the NRS catalogue.⁵⁴ Finally, it is important to note that the analysis offered here relies on the raw numbers of reported or prosecuted incidents (2,091 in total) and accused people (2,605 in total), and these have not been adjusted for population growth.⁵⁵ In light of these limitations, while the quantitative study that forms the basis of this article delivers significant insights, it can also be considered as a launchpad for further research.

3 DOCTRINAL DEVELOPMENTS

Before identifying patterns in offending, it is first necessary to explore the crimes of which a person dealing in counterfeit currency might have been accused. This should not be taken to imply that the two exercises – of analysing rates of prosecution and tracing shifts in legal doctrine – are easily separable. In fact, the argument running throughout this section and the next is that the two are intricately linked. More specifically, the argument is that “innovations” in the law’s development correspond to a perceived (and seemingly real) burst of counterfeit currency activity and that, conversely, prosecution rates were increased as a result of the doctrinal changes that facilitated them.

A good example in support of the latter claim – that doctrinal change increased the rate of prosecutions – is the introduction of the Coinage Offences Act 1832 (2 Will IV c34). The Act provided for the non-capital punishment of a range of activities, including counterfeiting coins resembling, or intended to resemble, any current regal gold or silver coin; colouring coins with the intention that they would pass for a gold or silver coin of a higher value; impairing or diminishing regal gold or silver coins; buying or selling counterfeit regal gold or silver coins for less than their nominate value; uttering these coins in the knowledge that they were counterfeit; uttering them in the knowledge that they were counterfeit while possessing more counterfeit gold or silver coins or having uttered them on more than one occasion; possessing

53 For another example, using more sophisticated mathematical analysis, see Ruth Ahnert and Sebastian E. Ahnert, “Metadata, surveillance and the Tudor state”, *History Workshop Journal* 87 (2019), 27–51 (discussed in Chloë Kennedy, “The sociology of law and legal history”, in Jiří Příbáň (ed.), *Research Handbook on the Sociology of Law* (Cheltenham, forthcoming)).

54 See M. A. Crowther, “Criminal precognitions and their value for the historian”, *Scottish Archives* 1 (1995), 75–84. The Bank of Scotland archives also hold papers, including declarations (witness statements), draft lists of questions for interrogating witnesses, and correspondence, for around fifteen forgeries during the period under examination (email from archivist, on file with the author).

55 Cf. Knox, “Homicide in eighteenth-century Scotland”.

three or more of these coins with the intention of uttering or putting them off; and mending, having, possessing or conveying out of the mint any tools for making gold and silver regal coins without lawful authority. The Act also contained a provision dealing with similar activities carried out against regal copper coins.

The position in Scots law before the 1832 Act was passed is not altogether clear, but it seems that many prosecutions for counterfeit coin offences took place at common law, according to which counterfeiting coins and passing counterfeit coins were crimes but the possession of coins and handling of coining apparatus were not.⁵⁶ Certain English statutes dealing with copper coins and counterfeiting gold and silver coin of the realm were acknowledged to apply to Scotland, following the Union,⁵⁷ but the creation of private tokens was not considered a crime, since no-one was obliged to accept them and they did not infringe the royal prerogative or bring the national faith into question.⁵⁸ As I discuss in the next section, the data generated from my study shows a significant upsurge in prosecutions for counterfeit coin offences from the mid-1820s. Among various reasons that can be offered for this, the passing of the 1832 Act, with its clear guidance on what kinds of conduct were criminal, and the expansion of this to include possession of counterfeit coins with intent to pass them, seem significant.

As for examples of doctrinal shifts occurring in response to, or at least in correlation with, a rise in counterfeit currency activity, these come from the punishment of forged bank notes. In keeping with other forgeries, the bare act of counterfeiting was not a crime, for even if there were proof of an intention to utter, this was not considered amenable to human punishment.⁵⁹ In contrast, prosecuting someone for uttering a counterfeit note that they had not forged was competent, so long as the utterer was libelled as having known the note was forged.⁶⁰ Indeed, this method of charging was considered wise when the circumstances of the forgery were unknown; and, over time, it became common.⁶¹ By the time Alison wrote his *Principles*, a practice had seemingly arisen whereby the utterers of forged notes used third parties – or “cat’s paws” – to distribute their notes into the world. In these circumstances, charging the person who had delivered the counterfeit note as art and part guilty of uttering was held to be competent.⁶² As for the forger who did not carry out the uttering

56 Hume, *Commentaries*, vol. 2 (1797), ch. XXVIII; Hume, *Commentaries*, vol. 1 (1844), ch. XXVIII; Alison, *Principles*, ch. XVIII. Alison, published in 1832, most clearly claims that prosecutions were occurring at common law. Interestingly, neither Alison’s *Principles* nor the 1844 edition of Hume mentions the Coinage Offences Act 1832.

57 The importation of English treason laws to Scotland is significant here. Only Alison seems to acknowledge the probable application in Scotland of the two English statutes relating to the coining of copper or brass money (15 Geo II c28 and 11 Geo II c40) (Alison, *Principles*, p. 458).

58 Hume, *Commentaries* (1797), p. 508; Hume, *Commentaries* (1844), p. 565; Alison, *Principles*, p. 457. On the creation of private tokens and their position under the law, see Selgin, *Good Money*. According to Selgin, a couple of Scottish industrialists began striking foreign silver coins with their company countermarks when the banks lost the authority to issue very small notes in 1800 (p. 214).

59 Hume, *Commentaries* (1797), pp. 215–16; Hume, *Commentaries* (1844), p. 149.

60 According to Hume and Alison, it was presumed that the person uttering the forgery was the forger unless he or she could prove otherwise by showing who the forger was (Hume, *Commentaries* (1797), p. 221; Alison, *Principles*, p. 397; Hume, *Commentaries* (1844), p. 149).

61 E.g. *Ebenezer Knox*, 1817 (JC8/12/25). For other cases, see Alison, *Principles*, pp. 398–9 and Hume, *Commentaries* (1844), pp. 156–7.

62 Alison, *Principles*, pp. 405–6.

themselves, art and part guilt was presumed unless the forger could prove that this would be inappropriate (e.g. by showing that the note had left his or her possession without his or her willing it).⁶³

“Uttering” was generously construed, and there was no need for anyone to suffer a loss or even to believe the fake was real. The danger of forgery, especially in a commercial country, was cited as justification for the fact that uttering was considered complete as soon as a counterfeit was produced or employed towards the prejudice of another.⁶⁴ The uttering, art and part or otherwise, had to be accompanied by knowledge of the note’s counterfeit status, though; and this was generally inferred from other items found in the possession of the accused, especially additional forged notes, or from the conduct of the accused more generally. If, however, additional forged notes were unconcealed or were revealed without any “appearance of conscious guilt”, then the weight of this evidence against the accused would be reduced.⁶⁵ The nature of any explanation given for how the forged notes had come into the utterer’s possession, and any excuse given for using them, was significant, too; using a note to pay for a trifling item, such as “a gill of whisky”, when change was readily available was sure to count against the accused, for example.⁶⁶ Similarly, sending another to pay for an item that the accused could have bought was an indication of guilty knowledge, as was taking flight or attempting to retrieve a forged note when challenged.⁶⁷

Though these presumptions of art and part liability, ways of inferring guilty knowledge, and generous interpretation of “uttering” were all geared towards tackling what was clearly considered to be a serious threat, the strongest indications that fear was shaping legal doctrine arise in respect of possessing forged notes and selling forged notes or passing them on as forged (to an accomplice, for example). The controversial shift towards punishing both of these activities when neither was clearly a crime in Scots law can be traced to the 1804 trial of Richard Mendham. Mendham had been charged with forging, or causing to be forged, notes of the Bank of England or having got possession of such notes before selling them on with the intent to defraud the bank. The libel was based on both the common law and the Bank of England Act 1741 (15 Geo II c13), which made it an offence, among other things, to dispose of or put away counterfeit notes with the intention of defrauding the bank.

Counsel for Mendham raised two objections: that the statute did not apply in Scotland and that the common law charge was deficient insofar as it did not specify that the notes had been uttered *as genuine* or with an intent to defraud. The Lord Advocate dropped the common law charge, meaning that the issue of whether it was relevant was left undetermined,⁶⁸ but the judges reached a decision on the statute, holding that it did not extend to Scotland. This meant that the accused was allowed to walk free – an outcome that drew negative reactions and the comment that

63 Hume, *Commentaries* (1797), pp. 216–17, 221; Alison, *Principles*, p. 397; Hume, *Commentaries* (1844), pp. 149–50.

64 Hume, *Commentaries* (1797), p. 217; Alison, *Principles*, p. 401; Hume, *Commentaries* (1844), p. 150. The reference to a commercial country was made by Alison.

65 Alison, *Principles*, p. 420.

66 Alison, *Principles*, pp. 421–2.

67 Alison, *Principles*, p. 420.

68 “High Court of Justiciary”, *Caledonian Mercury* (8 December 1804).

Parliament should “extend the laws respecting forged bank notes to Scotland”.⁶⁹ It is perhaps no coincidence that two individuals had been convicted at the Old Bailey earlier in the year for a similar practice (delivering a forged note to an associate to then knowingly vend) under the 1741 Act.⁷⁰

In due course, Parliament passed an Act of the kind requested, the Bank Notes (Forgery) Act 1805 (45 Geo III c89), but, as things transpired, this legislation did not make prosecutions much easier. Section 6 of the Act stated that it was a crime to purchase or receive a forged bank note, knowing it to be forged, or to knowingly have in one’s possession, custody or house any forged bank notes, knowing them to be forged and without lawful excuse. The possession part of this provision was used in 1814 to charge Thomas Gray with being found in possession of four counterfeit £2 notes, two of which purported to be of the Bank of England and two of which purported to be of the Bank of Scotland. Problems for the prosecution arose when counsel for Gray objected to the charge on the basis that, despite its wording, the 1805 Act did not extend to notes issued by the banks of Scotland.⁷¹ Informations were accordingly ordered by the court in which the exasperation of counsel for the prosecution is evident. Denying that the meaning of section 6 of the Act could be dictated by other sections of the Act, which referred explicitly to notes of the Bank of England (and indeed earlier Acts that made similar references), he argued that the frequency of bank-note forgeries in Scotland meant that the legislature must have had Scottish notes in contemplation when it drew up the legislation. Indeed, he claimed that the fact that Scotland’s ordinary trade depended exclusively on smaller notes – the kind that were issued by the Scottish banks alone and were most frequently forged – showed that any interpretation of the Act that would exclude these notes from its ambit was incorrect.⁷²

The judges determining the relevancy of the libel were split evenly, and so the charge was pronounced relevant⁷³ and the accused was ultimately convicted. Some twenty years later, however, the decision seems to have come to be regarded as unpersuasive, at least by Alison,⁷⁴ who remarked critically that the absence of any fitting legislation had caused a number of people who had been apprehended with 400 or 500 forged notes of Scottish banks in their possession, recently imported from Ireland, to be released without trial. Alison does not provide any support for his claims,⁷⁵ but it is certainly true that when an accused found in possession of Scottish bank notes came before Lord Mackenzie during the west circuit of spring 1831, his Lordship felt the issue was worth remitting to the Justiciary Court in Edinburgh. By

69 “High Court of Justiciary”, *Caledonian Mercury* (13 December 1804). The article claims that the Scottish public were greatly imposed upon by the dangerous practice of issuing forged notes.

70 *Palmer and Hudson*, mentioned in Hume’s *Commentaries* (1844), p. 153. An earlier case, *Bell and Mortimer*, had occurred in Scotland in 1800 and was relied upon by the prosecution in *John Horne* (JC8/10/165), but in this case the notes were delivered to an associate, who then uttered them, and this had been specified in the libel. This feature of the case makes *Bell and Mortimer* an example of art and part uttering – a “cat’s paw” case.

71 “High Court of Justiciary”, *Caledonian Mercury* (30 June 1814).

72 JC8/10/106.

73 “High Court of Justiciary”, *Caledonian Mercury* (30 June 1814).

74 Alison, *Principles*, p. 390.

75 He states that the point had not been “expressly brought” before the court, but claims that it was understood that the court was unanimously of the opinion that the Act applied only to Bank of England notes.

the time the case arrived before the judges in Edinburgh, the Solicitor General had dropped the part of the charge that related to the 1805 Act possession offence.⁷⁶ In my own research, I have discovered eight cases where section 6 of the 1805 Act was definitely used to prosecute, only three of which involve possession without uttering.⁷⁷ Crucially, these cases involved notes of Scottish banks, but one was deserted by the prosecutor because key witnesses had been misnamed,⁷⁸ another was deserted *pro loco et tempore* and does not seem to reappear,⁷⁹ and the last involved a guilty plea which was only retracted after the relevancy of the charge had been approved without challenge.⁸⁰

At almost exactly the time as *Gray* was being decided, the case of *John Horne* was proceeding through the court. The charges were brought on common law only and included forging and uttering the notes of three Scottish banks and the Bank of England but also of delivering, vending or disposing of such counterfeited notes as forged and for consideration of less than the nominal value.⁸¹ An objection was made by counsel for Horne to the effect that only uttering a forgery *as genuine* was criminal and that passing notes to a *socius* was therefore not a crime at common law. In recognition of the untested nature of the charge, informations were ordered.⁸² The submissions in these informations are largely couched in the language of attempts liability, with arguments on both sides centring on what constitutes an act, when control over an outcome has been relinquished (whether *locus poenitentiae* remains) and whether the accused had done all he could to effect a crime. What is significant is how the “end result” of the alleged attempt was framed. The difficulty for the prosecution was that it was generally understood that common law crimes required injury to some person or set of people and that, as such, a criminal attempt should involve an effort to bring about an injury of this sort. To be sure, uttering as genuine did not require any injury, but there was an intended victim in contemplation. In the case at hand, however, the entity at risk was not so much any individual or group of individuals as the system of paper currency itself. To get around this, the Crown advocate conceded that “nothing is criminal but what is injurious” but then went on to declare that it was enough that the conduct in question be injurious to society in general. By my reading, this reveals the true

⁷⁶ *Harris* (1831) Shaw 242. The case involved notes of the Royal Bank of Scotland and Carrick, Brown & Co.

⁷⁷ The cases that involved uttering are also ones involving notes purporting to be of the Bank of England (*Ebenezer Knox*, 1817 (JC26/1817/186; JC8/12/25); *Francis Watson*, 1817 (JC26/1817/187; JC8/12/35); *William Campbell and Thomas Watson*, 1817 (JC26/1817/188; JC8/12/39); *Frances McCay* (JC26/1819/42; JC8/14/79); *James Mackay and Barbara MacKay*, 1849 (JC26/1849/434); and *Susan and Archibald Miller*, 1849 (JC26/1850/568)). *Francis Watson*, *William Campbell and Thomas Watson*, *Frances McCay* and *Susan and Archibald Miller* are discussed further in section 5.

⁷⁸ *William Cook*, 1814 (JC26/1814/41; JC13/40/81).

⁷⁹ *Alexander Waddle or Waddell*, 1814 (JC26/1814/60; JC13/40/81). The full trial papers of this case are not available, so I have presumed that the 1805 Act was used in the indictment, based on the wording in the supplement that is available.

⁸⁰ *John Campbell and John Woods*, 1821 (JC26/1821/43; JC13/51/3), who were found with seventy-three £5 notes purporting to be of the Bank of Scotland.

⁸¹ Hume, *Commentaries* (1844), p. 150.

⁸² “High Court of Justiciary”, *Caledonian Mercury* (16 June 1814). In the 1813 case of *James Woods*, the only other case that had involved a charge of this kind since *Mendham*, the accused had confessed to being art and part guilty of uttering as genuine (JC8/9/170).

impetus for the prosecution – fear over the perceived threat to the Scottish system of commerce. This is confirmed by the advocate’s subsequent assertion that “in this commercial country, there cannot be any crime of a more dangerous description, especially in the present state of the circulating medium, than that which forms the subject of this indictment”.

The judges, who unanimously agreed that the libel was relevant, also appear to have accepted that this was not an attempt to utter the forged notes as genuine. Lord Meadowbank, whose speech Hume relays in detail, instead describes the activities of the accused as “important steps of a deep and advanced conspiracy against the safety of trade” which “must occasion uneasiness to the lieges as large, as well as to the bankers practised against”, concluding that this made them “fit subjects of cognisance of the Criminal Judge”.⁸³ Perhaps with reference to the debacle in *Gray*, he adds “[t]hat judges have to exercise their own intelligence with respect to offences of this description, instead of being governed by precise statutes enacted for them, is indeed to be regretted ... But there is no help for this”.⁸⁴

It seems clear that the concurrent development of these two doctrinal features of Scots law – the punishment of possessing forged bank notes and passing them on as forged – is not coincidental. Faced with an alarming rise in the number of counterfeited notes in circulation, and aware of the damage this could cause to a very paper-dependent economy, the advocates and judges used what materials they had to repress this threat as effectively as they could. The fact that this required contentious legislative interpretation and an expansion in the common law of crimes was evidently a source of considerable frustration for the judiciary and legal practitioners alike. It could certainly be argued that what the judges did in *Horne* was problematic, even by contemporaneous standards.⁸⁵ Yet whether their actions were justifiable is really beside the point; what I have tried to establish is that they can be explained by the pressures of circumstance. In order to further support this argument, in the next section I reveal the changing patterns of counterfeit currency offending. In addition to using these to support my claim regarding the impetus for the doctrinal developments just described, I also provide some explanations, based on the social standing of alleged offenders and changes in the use of currency, for the configurations that emerge.

4 DISTRIBUTION AND DEMOGRAPHICS

The method for determining who was carrying out these offences, where, and when, was to first impose some order on the charges and allegations that appeared in my search. Under “counterfeit note” offences, I grouped charges and allegations of uttering, using, forging, vending and possessing forged notes in various combinations and sometimes alongside other crimes. The total number of entries was 339, which was 16.2% of the total number of deception offence entries (2,091). Under

83 Hume, *Commentaries* (1844), p. 152. Some of the other judges insisted that it was important that the vending amount to a traffic in notes that were intended afterwards to be uttered as genuine into the market.

84 *Ibid.*

85 On the inherent power of the High Court of Justiciary to punish new crimes, see Chloë Kennedy, “Declaring crimes”, *OJLS* 37(4) (2017), 741–69.

“counterfeit coin” offences, I grouped charges and allegations of coining; uttering, tendering, possessing, selling and importing base/counterfeit/false coins (again, in different combinations and sometimes alongside other crimes); and offences against the coin or relating to the coin. The total number of entries was 430, or 20.6% of the total number of deception offence entries. Combined, the number of counterfeit note and counterfeit coin entries was 769, which was 36.8% of the total number of deception offence entries. Since a number of these entries involved multiple accused, it was necessary to disaggregate these entries when considering the personal attributes of each alleged offender. This resulted in a total of 2,605, of whom 444 (17%) were involved in counterfeit note crimes and 621 (23.8%) were involved in counterfeit coin crimes.

To track where these offences occurred, I assigned a location to each entry based on where the High Court of Justiciary heard the case or, where that was not clear from the NRS catalogue, where the prisoner was being held or where they lived. Sometimes this information was unavailable or insufficiently clear (e.g. where the trial is recorded in the circuit court minutes but no city or town is listed), so the entry is described as having an unknown location. Of course, these assignments are not perfect. It is possible that offences occurred at a distance from the accused’s residence – and sometimes the High Court would hear cases in Edinburgh that had taken place elsewhere (where an objection was raised on circuit, for example).⁸⁶ Nevertheless, the data generated gives a good sense of the different crimes’ geographic distribution and of the percentage of total deception offences that the two counterfeit currency offences comprise for each location (the figure, in bold, in the right-hand column under each of the two currency offences).

<i>Location</i>	<i>Deception offences</i>	<i>Counterfeit notes</i>		<i>Counterfeit coins</i>	
Unknown	53 (2.5%)	10 (2.9%)	18.9%	13 (3%)	24.5%
Aberdeen	188 (9%)	18 (5.3%)	9.6%	16 (3.7%)	8.5%
Ayr	132 (6.3%)	21 (6.2%)	15.9%	26 (6%)	19.7%
Dumfries	81 (3.9%)	15 (4.4%)	18.5%	18 (4.2%)	22.2%
Edinburgh	514 (24.6%)	64 (18.9%)	12.4%	98 (22.8%)	19%
Glasgow	627 (30%)	149 (44%)	23.8%	193 (44.9%)	30.8%
Inveraray	24 (1.1%)	4 (1.2%)	16.7%	3 (0.7%)	12.5%
Inverness	119 (5.7%)	7 (2.1%)	5.9%	4 (0.9%)	3.4%
Jedburgh	46 (2.2%)	3 (0.9%)	6.5%	6 (1.4%)	13%
Perth	243 (11.6%)	41 (12.1%)	16.9%	43 (10%)	17.7%
Stirling	64 (3.1%)	9 (2.7%)	14%	10 (2.3%)	15.6%

Looking at the geographic distribution of these offences, it is clear that they were concentrated in Glasgow and, to a lesser extent, Edinburgh. This is perhaps

⁸⁶ In addition to cases occurring near Edinburgh, the High Court of Justiciary sitting in Edinburgh heard difficult cases at the instance of crown counsel, who could remove any case from the circuit (Riggs, “Prosecutors, juries, judges”).

unsurprising, given the population growth in these Lowland cities. On the other hand, comparing the proportion of the total number of deception offences at each location that are counterfeit currency offences controls for population differences and is, for that reason, more revealing. This comparison shows that Glasgow remains the top location for both categories of offence and is followed by Dumfries. Ayr and Perth are the next “most criminal” locations, taking third place for coins and notes respectively. This distribution aligns with the high industrialisation and poverty of Glasgow and Dundee;⁸⁷ and, as mentioned above, south-west Scotland in general experienced comparatively high levels of immigration from Ireland. In addition to undertaking labouring, weaving and other textile-related work⁸⁸ which, as the following sections show, were already under pressure at the time counterfeit currency crime rates peaked, many of the people who came over from Ireland were already impoverished.⁸⁹

A number (twenty-seven) of those accused of, or prosecuted for, counterfeit note offences, especially in Glasgow and Ayr, are listed as being natives of Ireland or as residing there. Similarly, a number (thirty-seven) of those accused of, or prosecuted for, coining offences, particularly in Glasgow, Perth and south-west Scotland, towards the end of the period under examination (when the majority of counterfeit coin offences occurred) are listed as being natives of Ireland or as residing there. With the exception of two entries for other forgery offences, one for theft, and two more for falsehood, fraud and wilful imposition, these were the only accused people recorded as having a connection with Ireland within my sample.

These findings cohere with the link that was perceived between Irish migration and counterfeit money at the time. Published in 1832, Alison’s *Principles* refer to the frequency with which large quantities of forged notes were brought over from Ireland;⁹⁰ and a few broadsides reporting on counterfeit currency cases refer to Irish involvement. For example, Margaret Kennedy, a 22-year-old widow sentenced to death in 1818 (later remitted) for using forged guinea notes of the Stirling Banking Company, reportedly claimed that she had got the notes from some Irishmen to whom she sold smuggled Highland whisky.⁹¹ Similarly, two broadsides⁹² in 1823 covering the execution of John McCanna and Joseph Richardson imply that the Irishman, McCanna, was the instigator. Damning him with faint praise, they state that his conduct was “exemplary” though he professed the “Roman Catholic creed”, and express surprise that he was not bigoted. These comments reflect a more general anti-Irish or, more accurately, anti-Catholic Irish sentiment⁹³ that existed at this time, whose influence over the criminal justice system cannot be ruled out without further study.⁹⁴

87 Devine, “Urbanisation”, p. 40.

88 Braber, “Immigrants”, p. 497.

89 “Introduction”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 6; M. A. Crowther, “Poverty, health and welfare”, in Fraser and Morris (eds), *People and Society in Scotland: Volume 2 1830–1914*, p. 266.

90 Alison, *Principles*, p. 390.

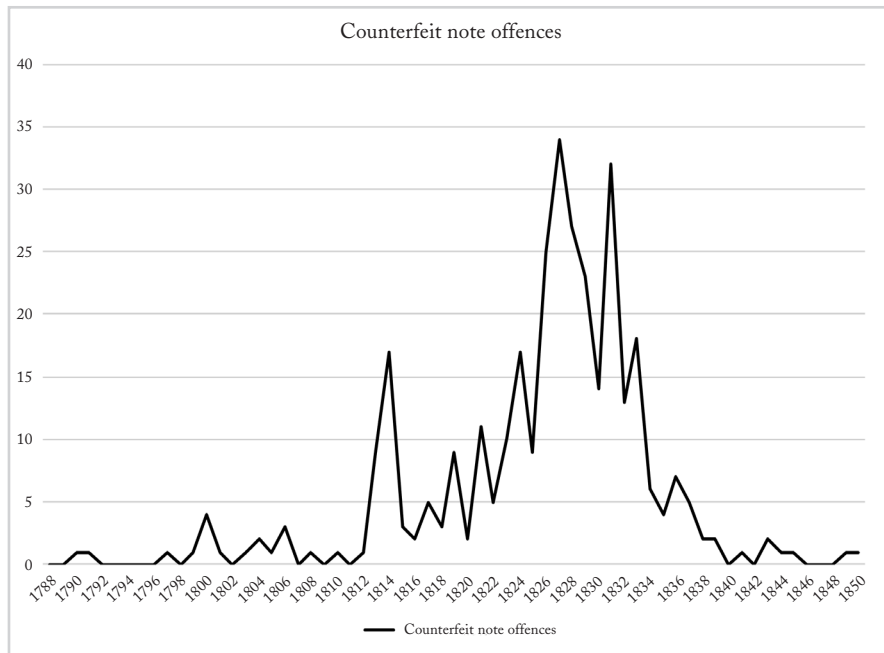
91 <https://digital.nls.uk/broadsides/view/?id=15287>

92 <https://digital.nls.uk/broadsides/view/?id=14699>; <https://digital.nls.uk/broadsides/view/?id=14698>

93 Braber, “Immigrants”, pp. 496–8.

94 For such a study, see Adam Crymble, “How criminal were the Irish? Bias in the detection of London currency crime, 1797–1821”, *London Journal* 43(1) (2018), 36–52.

The suggestion that poverty and difficult social conditions – but also changes in currency usage – can help explain the commission of counterfeit currency offences is strengthened further by considering their temporal distribution. Starting with counterfeit note offences, the accusations and trials identified in this study are distributed as shown in this graph.



What is immediately noticeable is the large spike of 1826–30, an increase also observed by Donnachie on the basis of a Parliamentary report on convictions for forgery and uttering of instruments connected with the Chartered and other Banks of Scotland.⁹⁵ Donnachie, rightly in my opinion, connects this increase with the economic depression of the mid- to late 1820s.⁹⁶ My own study reveals further spikes in the early 1830s, which cohere with the cycles of economic depression that occurred between 1825 and 1836;⁹⁷ indeed, they mirror even more closely the “slack” British economy created in the wake of the quick-to-bust speculative ventures of 1825, which lasted until 1832.⁹⁸

Ruminations on how to prevent bank-note forgeries appeared in Scottish newspapers just before this time, illustrating that the prevalence of counterfeits, which was on the rise in England too, was creating agitation. A letter to the editor of the *Glasgow Herald* suggests that bank notes ought in future to emulate designs from

95 “Return of number of persons convicted of forgery in Scotland, 1791–1829”, Parliamentary Papers vol. XXIII, p. 187 (1830).

96 Donnachie, “The darker side”, at 14–15.

97 “Introduction”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 7.

98 Checkland, *Scottish Banking*, p. 409.

nature, such as the grain of wood, and advises the public in the meantime to look out for notes that have more than one cut edge – a sign of forgery.⁹⁹ Another piece, in the *Edinburgh Magazine and Literary Miscellany*, which opens with a quotation from *The Heart of Midlothian* – “Be ay setting in a tree when ye have naething else to do, it will be growing, Jock, while ye’re sleeping” – argues that an improvement in the manufacture of bank notes would lessen the “evil” of forgery by increasing its difficulty and, at the same time, remove the justification for punishing the crime with death (discussed further in section 5).¹⁰⁰

My study also reveals an earlier spike, in 1814, which might be attributable to the poverty, increased insecurity and surplus of labour caused by the Napoleonic wars and the demobilisation of soldiers and sailors.¹⁰¹ This was precisely the time when the cases of *Horne* and *Gray*, discussed earlier, occurred. The two cases were heard in the summer of 1814, and the majority of the other trials for counterfeit note crimes took place in the spring, which suggests that *Horne* and *Gray* were decided in response to a rise in counterfeit note circulation, as opposed to being the cause of the spike in prosecutions. Unfortunately, the NRS catalogue does not provide specific dates for the six precognitions from 1814 that do not appear to have corresponding High Court of Justiciary trials. Certainly, counsel for the accused in *Horne* commented that, by 1813, forgery of bank notes had developed into a system and was being carried out to a greater extent than ever before.¹⁰² At this time, another open letter was published, suggesting ways of preventing bank-note forgeries and pleading that they be followed.¹⁰³

The decline in counterfeit note offences after 1833 can be contrasted with the incidence of offences involving counterfeit coins. These are fairly infrequent, though there is a noticeable spike around the beginning of the period of restriction, before the numbers start to climb from around 1824, increase noticeably in 1832, and then increase in spates until they peak in the early 1840s and remain fairly high thereafter. As with bank notes, the patterns in offending uncovered by my study are reflected in news coverage of the time, as illustrated by stories in 1824 referring to police tactics used to address the “nefarious traffic”¹⁰⁴ of base coins and the conviction of one member of a group of coiners known as “Miller’s Gang”.¹⁰⁵ Likewise, a story about the capture of a den of coiners and distributors of base money in Coatbridge appears in 1848, when there is a slight dip in the graph but the number of allegations of counterfeit coin offences is still higher than the previous quarter of a century.¹⁰⁶

99 “An ... criterion for detecting forged bank notes”, *Glasgow Herald* (20 November 1820).

100 “Thoughts on various subjects of political economy”, *The Edinburgh Magazine and Literary Miscellany: A New Series of the Scots Magazine* (1 January 1824).

101 “Introduction”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 7.

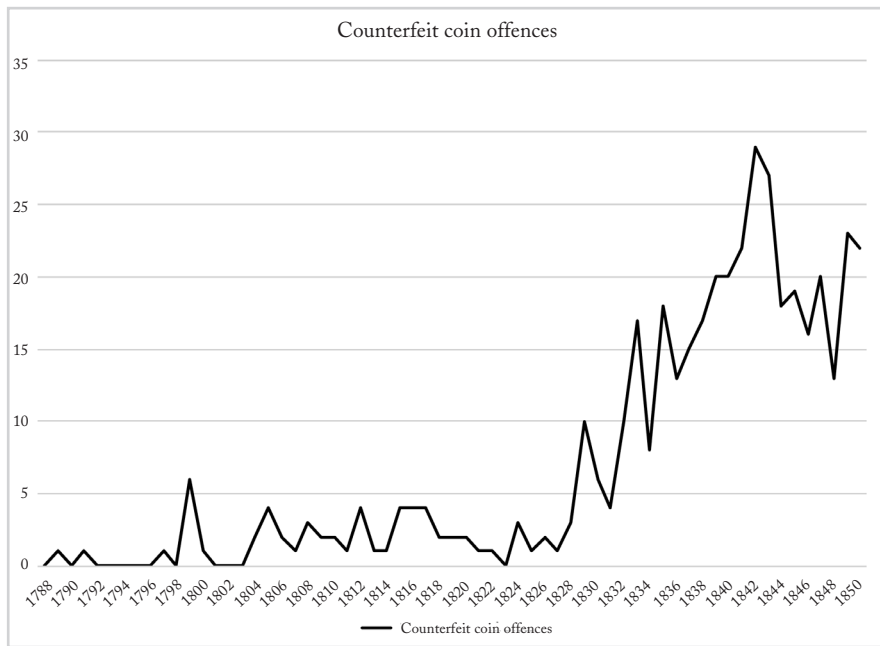
102 JC8/10/165.

103 S. B. Pearson MD, “Plan for more effectually guarding against the circulation of forged bank-notes & c”, *The Scots Magazine and Edinburgh Literary Miscellany* (7 June 1813).

104 “Police court”, *Caledonian Mercury* (14 February 1824).

105 “Police”, *Caledonian Mercury* (29 July 1824).

106 “Coatbridge”, *Glasgow Herald* (7 February 1848).



That these two graphs are almost the inverse of one another from the early 1830s onwards is striking; and the differences require some explanation.

It seems likely that the relative absence of offences involving counterfeit coins in the earlier portion of the period might partly be due to the existence of small notes in Scotland, including the very small notes that came about during the period of restriction. In 1803, for example, Scott Moncrieff estimated that the amount of paper in circulation (bank notes and bills of exchange) was twice what it had been in 1793.¹⁰⁷ It makes sense that counterfeiters would choose to concentrate on the medium in widest circulation in order to enhance the likelihood that it would pass undetected. The drop in counterfeit note offences in 1826 and then, more consistently, from 1833 is harder to explain. It is not possible to completely rule out the possibility that some counterfeit note offences might have been prosecuted using atypical charges.¹⁰⁸ Taking the figures at face value, though, a new phase of prosperity from 1832 might explain the drop in offences if not for the fact that poor economic conditions returned in the form of a major financial crash in 1837, economic depression between 1839 and 1843, and then another boom and bust in 1845 and 1847 respectively.¹⁰⁹ My own suggestion, defended more fully below, is that the drop-off in counterfeit note offences is to do with changes in the availability of coinage and that economic hardship, when it occurred, can be observed in patterns of offending relating to this currency. There are other possible, complementary, explanations too, though.

¹⁰⁷ Checkland, *Scottish Banking*, p. 224.

¹⁰⁸ For example, a case of falsehood, fraud and wilful imposition is described as being committed by uttering as genuine papers in imitation of bank notes: *HM Adv v Alexander Lindsay and Robert Struthers* (1838) 2 Swin 198.

¹⁰⁹ Checkland, *Scottish Banking*, pp. 409–13.

First, by 1826, bank notes were more carefully regulated and produced than they had previously been. The practice of banks receiving each other's notes and returning them expeditiously (the note exchange) that had been introduced on a small scale during the eighteenth century now extended to most of the country;¹¹⁰ and the first double-sided bank note to be printed in Britain, featuring a much more detailed portrait of George IV, was issued by the Royal Bank of Scotland the same year.¹¹¹ In light of these changes, forgeries may have been more difficult and therefore considered too high-risk. Second, banks were far less dependent on notes as a source of profit by the 1830s. Whereas in 1802 notes were equal to one half of deposits, by 1825 deposits were four times the note issue, and by 1850 the ratio of deposits to notes was 10:1.¹¹² Finally, there seems to be a rise in the extent to which bills and bills of exchange were counterfeited from 1832, judging by the data generated by my study, with "bumper years" for forgeries being 1837 and 1839–40.¹¹³ The first examples of counterfeit cheques appear in this later period as well, but these are fairly rare,¹¹⁴ which coheres with the fact that use of cheques was not commonplace in Scotland until the 1870s and 1880s.¹¹⁵ Though it would require more research to establish, it is possible these rises are somehow connected with the decline in counterfeit bank notes.

However plausible these suggestions are, it is clear that bank-note counterfeits were on the decline at almost precisely the time that counterfeit coin offences were on the rise. This is significant for both categories of offending, because it suggests that illicit currency mimicked what Smith and Hume believed to be true of licit currency, i.e. they stood in a relationship of reciprocity. As I have already mentioned, I believe the high incidence of counterfeit note offences in the earlier part of the period can be explained by the relative absence of coinage and the tendency to rely on notes, particularly small-value notes. It would fit this theory, therefore, if the increase in counterfeit coin offences coincided with a surge in the amount of coinage available for use. Although it is difficult to obtain figures about the circulation of coins in Scotland specifically,¹¹⁶ the Royal Mint began striking regal copper for the time since 1775 in 1821 (which also coincided with the end of the bank restriction) and began doing

110 The system was introduced following the small-notes crisis and the failure of the Ayr Bank (Checkland, *Scottish Banking*, p. 437).

111 <https://www.rbs.com/heritage/subjects/our-banknotes/historic-notes/p1-note-of-the-royal-bank-of-scotland--1827.html>

112 Checkland, *Scottish Banking*, p. 384. See also C. H. Lee, "The establishment of the financial network", in Tom M. Devine et al. (eds), *The Transformation of Scotland: The Economy Since 1700* (Edinburgh, 2005).

113 Checking a sample of these suggests that they are not simply cases where bank notes are referred to by a different name (*John McDonnell*, 1834 (JC26/1834/145); *Benjamin Pender* (JC26/1836/254) (1836) 1 Swin 25; *John Ralston*, 1837 (JC26/1837/375); *Alexander Robbie*, 1843 (JC26/1843/45)).

114 *Thomas Reynolds*, 1837 (JC26/1837/501); *David Howison*, 1847 (JC26/1847/576); *Dugald Campbell McNab*, 1848 (JC26/1848/133); *Elizabeth Hyde and Alexander Fegan*, 1849 (JC26/1849/363).

115 Stephen Quinn and William Roberds, "The evolution of the check as a means of payment: a historical survey", *Federal Reserve Bank of Atlanta Economic Review* 93(4) (2008), 1–28, at 5.

116 There is evidence to show that Scotland, like the rest of Britain, received some silver in 1817 (MINT 11 archive, held at the National Archives but not accessed by the author). However, the archive described as relating to local currencies in circulation in the British Isles (MINT 12) appears mainly to be concerned with the coinage situation in Ireland; and *Records of the Coinage of Scotland from the Earliest Period to the Union*, collected by R. W. Cochran-Patrick, 2 vols (Edinburgh, 1876) covers only the period up until the Union.

so on a large scale in 1825. From this time, the supply of copper and silver coins was much healthier.¹¹⁷ Of course, as alluded to above, the passing of the Coinage Offences Act 1832 also has a role to play in explaining the rise in prosecutions. Though the Act is not cited in every catalogue entry referring to possession of base coin, the charge does not appear before 1832, and it seems reasonable to assume that the charges for possession, as well as uttering and making base coins, were being brought under the legislation.

Finally, the pattern of counterfeit coin offences matches well with the periods of economic hardship described earlier. This association between times of hardship and the propagation of counterfeit coins comes through equally strongly in a news report of the Coatbridge coiners. The report chronicles how the “worthy money-making huxtriss” “Milk Peggy”, who sold oranges, potatoes, Nelson balls and other odds and ends, was passed three bad shillings by a “Hibernian” man (and, on discovering the fact, physically restrained him until the police arrived). Her suspicion aroused, Peggy reportedly challenged the Irishman in the following terms: “Siller’s surely gaye an’ rife among ye ... when ither folks are starvin’. I’m no vera sure aboot this shillin’ trade; are ye makin’ them?”¹¹⁸ This accusation, and the way it is framed, is significant in that it speaks to the kind of commonplace, low-value item that counterfeit coins were used to purchase but also to the dire position of many ordinary people. Even more significantly, as the following section makes clear, the demographic groups that were worst affected by the financial difficulties that abounded during the period represented by the tallest peak on the graph, i.e. 1839–42, were the very people most likely to commit offences involving base coins. This finding simultaneously reinforces the argument that economic deprivation plays a large role in explaining patterns in counterfeit currency offending and confirms the importance of paying attention to the characteristics of those prosecuted for these crimes, including their gender and occupation and, where the data allows it, the way these intersect.¹¹⁹

Despite the considerable number of entries where this information was not available through the NRS catalogue, a connection between occupation,¹²⁰ and therefore financial and reputational status,¹²¹ and type of deception offence committed is evident.

Those engaged in agricultural, clerical, mercantile, military, nautical and professional occupations clearly make up the minority of those committing all of the offences examined here, with those involved in textile manufacturing, trade, and unskilled and casual occupations dominating. Without corresponding figures indicating what proportion of the general population was engaged in these occupations, it is hard to determine the significance of this distribution. Comparing the proportion of deception offences that are counterfeit currency offences across

117 Selgin, *Good Money*, p. 266.

118 “Coatbridge”, *Glasgow Herald* (7 February 1848).

119 Katie Barclay and Rosalind Carr, “Rewriting the Scottish canon: the contribution of women’s and gender history to a redefinition of social classes”, *Études écossaises* (2013), 11–28.

120 I grouped the occupations that occurred in my sample according to a slightly modified version of a schema that appears in Smout, *History of the Scottish People* that is itself based on occupations in Glasgow in 1831 (p. 395). See the Appendix for the full list.

121 Stana Nenadic, “The rise of the urban middle class”, in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, p. 113. Of course, the boundaries between these groups are not fixed, and there would be differing levels of economic security and prestige within each group.

each group should control for population size difference, however, and shows some significant differences. These percentages (the figure, in bold, in the right-hand column under each offence) confirm that those involved in clerical, professional, mercantile and military occupations appear to have been relatively uninvolved in counterfeit currency crimes. As a proportion of the overall deception offences attributed to each group, counterfeit currency crimes make up 4.1%, 5.5%, 5.6% and 19.5% respectively. Those involved in the trade, nautical, unskilled and casual, and textile-manufacturing occupations appear to have been more heavily involved; and, as a proportion of the overall deception offences attributed to each group, counterfeit currency crimes make up 35.6%, 42.8%, 56.2% and 67.2% respectively. The figure for agriculture is 21.6%.

<i>Occupation</i>	<i>Deception offences</i>	<i>Counterfeit note offences</i>		<i>Counterfeit coin offences</i>	
Agriculture	125 (4.8%)	25 (5.6%)	20%	2 (0.3%)	1.6%
Clerical	73 (2.8%)	0 (0%)	0%	3 (0.5%)	4.1%
Mercantile	72 (2.8%)	2 (0.5%)	2.8%	2 (0.2%)	2.8%
Military	41 (1.6%)	5 (1.1%)	12.2%	3 (0.3%)	7.3%
Nautical	28 (1.1%)	2 (0.5%)	7.1%	10 (1.6%)	35.7%
Professional	91 (3.5%)	6 (1.4%)	3.3%	2 (0%)	2.2%
Textile Manufacturer	201 (7.7%)	48 (10.8%)	23.9%	87 (14.1%)	43.3%
Trade	604 (23.2%)	101 (22.7%)	16.7%	114 (18.4%)	18.9%
Unskilled and casual	482 (18.5%)	127 (28.6%)	26.3%	144 (23%)	29.9%
Unknown	888 (34.1%)	128 (28.8%)	14.4%	254 (41.6%)	28.6%

As would be expected, unskilled labour was poorly paid, and casual work would have been inconsistent in its availability. Those falling into this category are therefore likely to have been among the most financially impoverished. Similarly, many of the trades would have been subject to varying demand and only moderately lucrative.¹²² Weavers, who were concentrated in the west of Scotland¹²³ – an area where there was, as already demonstrated, disproportionately high counterfeit currency offending – were in a particularly unenviable situation in terms of low wages and the decline of their trade. Their deprivation led them to strike in 1812 and again in 1820,¹²⁴ and by 1834 half were below the poverty line.¹²⁵ While spinners appear to have fared better than weavers, they also went on strike in 1837,¹²⁶ and by early 1843 there was large-scale unemployment of cotton workers and general labourers in Glasgow

122 Knox, "Poverty, income and wealth in Scotland".

123 On the extent of textile employment in the west of Scotland, see Smout, *History of the Scottish People*, pp. 392–3.

124 W. Hamish Fraser, "Patterns of protest", in Devine and Mitchison (eds), *People and Society in Scotland: Volume 1 1760–1830*, pp. 284–6; Smout, *History of the Scottish People*, pp. 424–5.

125 Devine, "Urbanisation", p. 49; Smout, *History of the Scottish People*, pp. 426–30.

126 W. Knox, "Political and workplace culture of the Scottish working class, 1832–1914", in Fraser and Morris (eds), *People and Society in Scotland: Volume 2 1830–1914*, p. 148.

and the west of Scotland.¹²⁷ This is, of course, when the number of counterfeit coin offences that are, again, very clearly linked with Glasgow reaches its peak.

The gender (assigned on the basis of full name) breakdown of those accused of deception offences helps provide a fuller account of which kinds of people were involved in counterfeit currency offences, including their likely economic and social standing.

<i>Offence</i>	<i>Men</i>	<i>Women</i>	<i>Unknown</i>
Deception generally	2,058 (79%)	544 (20.9%)	3 (0.1%)
Counterfeit currency	659 (62%)	405 (38%)	1 (0.1%)
Counterfeit note	330 (74.5%)	113 (25.5%)	1 (0.2%)
Counterfeit coin	329 (53%)	292 (47%)	0 (0%)

Based on these figures, women's involvement in counterfeit currency offences, especially those relating to coins, is well above their involvement in other kinds of deception offence. Indeed, counterfeit currency offences constitute the majority of the deception offences women were involved with, according to my sample (74.4% as compared to 32% of men's). It is possible to assess whether the extent of women's involvement in these crimes was unusual by taking account of existing scholarship that has investigated the rates of female offending for particular crimes in Scotland, excluding the highly gendered crimes of prostitution, witchcraft and infanticide.

Donnachie's study found that women constituted 25% of those accused of crimes between 1800 and 1850¹²⁸ and that women made up a third of those accused of theft for a portion of the period (1805–14).¹²⁹ Though using different methods and adopting different geographic and temporal parameters, other studies have shown that 79% of homicide indictments issued in south-west Scotland between 1750 and 1815 were levelled at men and 21% at women¹³⁰ but that only 9.2% of homicide indictments issued across the nation between 1700 and 1799 were against women.¹³¹ The south-west-Scotland study found that women were indicted for reset (receipt of dishonestly acquired goods) four times more often than their male counterparts¹³² – but the same author has also found that this gap narrows significantly over time, with women accounting for 40% of those indicted with reset between 1836 and 1899.¹³³ Further studies have found that 33% of those accused of robbery in Scotland between 1815 and 1900 were women,¹³⁴ that around a tenth of those indicted for mobbing

127 Checkland, *Scottish Banking*, p. 143.

128 Donnachie, "The darker side", at 20.

129 Donnachie, "The darker side", at 11, 14. He found that housebreaking and burglary were "male-dominated".

130 Kilday, *Women and Violent Crime*, p. 43. This study does not appear to have relied on precognitions, which is not surprising given its temporal scope. For a study of later developments in homicide (including infanticide) and attempted murder prosecution, see Kilday, *Crime in Scotland 1660–1960*.

131 Knox, "Homicide in eighteenth-century Scotland", at 66.

132 Anne-Marie Kilday, *Women and Crime in South-west Scotland: A Study of the Justiciary Court Records, 1750–1815* (unpublished PhD thesis, University of Strathclyde), p. 232.

133 Kilday, *Crime in Scotland 1660–1960*, p. 255.

134 Kilday, "Hell-raising and hair-raising", at 264.

and rioting between 1805 and 1913 were women, and that women were involved in just over 40% of “non-violent property crime” between 1836 and 1899.¹³⁵

Looking at these figures, it seems as though counterfeit cash offences are similar to reset, and perhaps theft, in the sense that women’s involvement in these crimes is pronounced. Focusing on Donnachie’s study, which is the most similar to my own, suggests that it is only really counterfeit coin offences that are particularly gendered. The proportion of women accused of counterfeit note offences, 25.1%, conforms to the proportion of women’s involvement in all crime in Donnachie’s sample. In contrast, there is almost gender parity in counterfeit coin offences.

There are a number of reasons why this might be the case. It could be that women were less inclined to commit the more daring of the two categories of offence, for example (the punishment of these offences is considered below). My own suggestion is that the women committing these offences occupied social and economic positions that gave them reason to commit these offences but also made them more likely to commit counterfeit coin offences, in particular. If this hypothesis is correct, we could expect to see women well represented within the poorest groups in society, particularly within those that, proportionately, committed a large number of counterfeit coin offences. As discussed above, the poorest of the occupational groups are likely to have been unskilled and casual labour, textile manufacture and trade – and, among these, the textile industry is the group that committed the most counterfeit coin offences (in terms of a proportion of their overall deception crimes). An intersectional analysis of the gender and occupation of those accused of each offence can be used to test this hypothesis.

	<i>Deception</i>		<i>Counterfeit note</i>		<i>Counterfeit coin</i>	
	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>	<i>Men</i>	<i>Women</i>
Agriculture	123 (6%)	2 (0.4%)	25 (7.5%)	0 (0%)	1 (0.3%)	1 (0.3%)
Clerical	72 (3.5%)	1 (0.2%)	0 (0%)	0 (0%)	2 (0.6%)	1 (0.3%)
Mercantile	72 (3.5%)	0 (0%)	2 (0.6%)	0 (0%)	2 (0.6%)	0 (0%)
Military	30 (1.5%)	11 (2%)	2 (0.6%)	3 (2.7%)	1 (0.3%)	2 (0.7%)
Nautical	25 (1.2%)	3 (0.6%)	2 (0.6%)	0 (0%)	7 (2.1%)	3 (1%)
Professional	88 (4.3%)	3 (0.6%)	5 (1.5%)	1 (0.9%)	1 (0.3%)	1 (0.3%)
Textile	142 (6.9%)	59 (10.9%)	32 (9.6%)	16 (14.3%)	50 (15.2%)	37 (12.7%)
Trade	521 (25.3%)	83 (15.3%)	82 (24.6%)	19 (17%)	69 (21%)	45 (15.4%)
Unskilled	369 (17.9%)	113 (21%)	101 (30.3%)	26 (23.2%)	90 (27.4%)	54 (18.5%)
Unknown	618 (30%)	269 (49.4%)	81 (24.5%)	48 (42.5%)	106 (32.2%)	148 (50.7%)

As expected, where information is available about the women involved in each offence, this shows that their work was largely unskilled or involved textile and trade. What stands out most, however, is the large number of women about whose occupational status nothing is revealed in the catalogue. Indeed, where an occupational status has

135 Kilday, *Crime in Scotland 1660–1960*, pp. 161, 250. The non-violent property crimes considered by Kilday seem to include theft and its “allied offences”, and they explicitly exclude “petty theft”, arson [*sic*], vandalism, prostitution, extortion, blackmail (it is not clear how this is distinct from extortion), fraud and forgery.

been assigned to a woman, this was sometimes done on the basis of her husband's occupation.

It is nevertheless possible to speculate about the likely position of the women involved in these offences on the basis of what is known about the position of women in Scotland at this time more generally. In urban, commercialised Scotland, women had an important role to play, and there are examples of women trading and building up business reputations, but there was also a tendency to regard women's work as unskilled and men's as skilled. Women's work was also invariably cheaper as well as being considered inferior to men's.¹³⁶ As mentioned above, unskilled work was generally poorly paid; and so-called homeworkers, who were mainly married or widowed women, worked long hours for small returns.¹³⁷ Additionally, thirty-five of the women involved in counterfeit currency offences about whom anything is revealed by the NRS catalogue are listed as widows – a fact that is significant because, according to a study conducted at the end of the nineteenth century, widowhood was the chief cause of poverty for women.¹³⁸ Finally, women were absolutely central to the textile industries in Scotland and constituted a large section of that workforce.¹³⁹ Although speculative, it is therefore plausible to suggest that the women who committed counterfeit currency offences, particularly the coin-related offences in which they were disproportionately engaged, did so on account of their financial and social status, both of which were intimately linked to their gender.

To conclude this section, it is worth noting how each of the doctrinal and demographic features discussed above is represented in the broadside *The Dark Girl Dressed in Blue*, published some time between 1850 and 1870 (i.e. the end of the period under consideration). The narrative and the main character bear similarities to two songs of the time, *The Black Velvet Band* and *The Dark Girl Dress'd in Blue*. *The Black Velvet Band* tells the story, often set in Belfast, of a girl who frames a young man who has been beguiled by her charms, thereby bringing about his transportation to Australia for seven years. The girl is described as having eyes that shine like diamonds, and she brings the man down by slipping him a pocket watch she has stolen.¹⁴⁰ *The Dark Girl Dress'd in Blue*, arranged by Henry Clifton in 1862, describes a man who narrowly escapes conviction after changing a forged five-pound note, in a bar, at the request of a dark-haired milliner.¹⁴¹

This Scottish hybrid also features a dark-haired girl¹⁴² who is a milliner and convinces her dupe to change a note in a bar. Unlike the girl in Clifton's version, however, she has "eyes like diamonds bright" and "coal black" hair. The diamond-bright eyes associate this girl with *The Black Velvet Band*, and therefore Ireland,

136 Simonton, "Work, trade and commerce", pp. 213–14.

137 Knox, "Poverty, income and wealth in Scotland", p. 8.

138 Knox, "Poverty, income and wealth in Scotland", p. 4.

139 By 1839, 40,868 out of 59,314 of those working in Scottish textiles were female, 43% of whom were under the age of 18 (Eleanor Gordon, "Women's spheres", in Fraser and Morris (eds), *People and Society in Scotland: Volume 2 1830–1914*, p. 207). See also Smout, *History of the Scottish People*, p. 405.

140 Norman D. Stevens, "The Blue Velvet Band/The Black Velvet Band/The Maid with the Bonny Brown Hair", *Journal of American Folklore* 87 (1974), 252–3.

141 <http://www.bl.uk/onlinegallery/onlineex/vicpopmus/t/015hzz000001790u00041001.html>

142 Like other broadsides, the image is not particularly fitting: <https://digital.nls.uk/broadsides/view/?id=14838>



The Dark Girl Dressed in Blue.

When first in Glasgow I arrived, the truth I will unfold,
I had a pocketbook with me, well filled with notes and gold,
I wulked about from place to place its beauties for to view,
When all at once I chanced to see a Dark Girl dressed in blue

She was a nice gal, fal de riddle i do,
A beauty, fal de riddle eh,
She was a fine girl, fal de riddle i do,
A charmer, fal de riddle eh,

Her graceful leg and fairy feet, and eyes like diamonds bright,
Her coal black hair and rosy cheek they did my heart delight,
She stepped into an omnibus, I thought I'd go in too,
And there I took my seat beside that dark girl dressed in blue.

The 'bus got thronger as we went, she got crushed up rather tight,
At length she fainted as I thought, which put me in a fright,
Says I, "my dear, a crowded place does not agree with you,"
"Oh sir, assist me to get out," said the Dark Girl dressed in blue.

When we got out of the omnibus, we walked arm in arm together,
Then she made free to ask of me, if I'd got a father or mother,
"O yes," says I, "and a grandmother too, but pray miss, what are you?"
I'm head engineer in a milliner's shop, said the dark girl dressed in blue

As we walked on, says I, "you're much fatigued I think,
Will you go into this public house, and have a glass of drink,
To pay for which she declared she would, saying, "Sir, oblige me do,
To change this note, I refuse could not, this dark girl dressed in blue,

The change for her I did obtain, she says, "Sir, excuse me pray,
Remain you here for a short time, I shan't be long away,"
Scarce had she gone, a policeman came saying, "Please, sir, I want you,
That was a forged note just now changed, where's the dark girl dressed
in blue."

Then to the station I was marched, and before the bailies took,
And there I told them I had lost my watch and pocket book,
They placed a lady at the bar, quite different to my view,
For in deep mourning she was rigged, not a dark girl dressed in blue.

They raised her veil, to my surprise, I was taken all aback,
Her dress it was a reversible, a sky blue and deep black,
The charge it likewise was reversed, they believed my statement true.
They acquitted me, but sixty days gave the dark girl dressed in blue.

So all young gents I pray beware, and a warning take by me,
For young ladies are not always what they do appear to be,
Examine well each shawl and dress, the lining likewise too,
Or a transformation scene you'll have, like the dark girl dressed in blue

and her complexion and hair match the attributes associated with indigenous Irish people later in the nineteenth century.¹⁴³ The location – Glasgow – was of course the locus of most counterfeit currency offences in Scotland; and, with the exception of her skilled occupation and the fact she has uttered a note rather than a coin, the dark girl dressed in blue is an exemplar of counterfeit currency crime in the first half of the nineteenth century. Recalling the legal doctrines that were outlined in section 3, the girl's conduct – sending another to make a purchase on her behalf, then rushing off once the forged note had been broken – could clearly found an inference of guilty knowledge. Furthermore, her victim – the dupe who obtains the change for her – escapes punishment by telling a credible story to the police. Another difference between the dark-haired girl who features in the broadside set in Glasgow and the dark-haired girl in Clifton's arrangement is that we are told that the Glasgow girl receives sixty days' imprisonment for her crime. To consider whether this is representative, it is necessary to examine how counterfeit currency offences were punished and how this shifted over time.

5 SENTENCING AND PUNISHMENT

Without further information on the circumstances of each case, such as the number and value of counterfeit notes or coins and the existence of previous convictions, it is not possible to chart precisely changes in the punishment of these offences.¹⁴⁴ As Alison explains, these factors made a difference to the sentence given for both counterfeit note and counterfeit coin offences.¹⁴⁵ The Coinage Offences Act 1832 also stipulated that different sentences would apply to the different kinds of prohibited activities and that previous convictions would be taken into account. For the same reasons, no comparison of the punishment of men and women is made, either. Without more information about the circumstances of offending, any gendered difference in punishment could simply be attributable to differences in the magnitude of the crime and/or the existence of previous convictions.¹⁴⁶ Instead, in this section I present some general trends that emerge from the data, highlighting points of significance, particularly those that illustrate the particularities of the Scottish experience. Due to the significance of capital punishment, and its decline during this period, the focus is largely on the punishment of offences involving forged notes. No examples of punishing counterfeit coin offences with death arise in my sample, though there are some instances of individuals petitioning successfully to be banished towards the beginning of the period.¹⁴⁷ Transportation and imprisonment (sometimes with hard labour) are used throughout the period, ranging from fourteen years' transportation down to one month in prison.¹⁴⁸

143 Catherine Nash, "Irish origins, Celtic origins: population genetics, cultural politics", *Irish Studies Review* 14 (2006), 11–37.

144 For such a study, which analyses theft, see Riggs, "Prosecutors, juries, judges".

145 Alison, *Principles*, pp. 399, 451.

146 The data does suggest that prosecutions against women were dropped more frequently, particularly in cases involving multiple accused, but more research would be required to confirm this.

147 *Daniel Aldridge*, 1789 (JC26/1789/33); *John Stewart* (JC26/1797/25); *Daniel and Alice Feggan*, 1808 (JC12/26); *Robert Hardy*, 1815 (JC12/29).

148 The use of shorter prison sentences declines over time, possibly due to the rise of summary jurisdiction and fewer low-level cases being heard by the High Court of Justiciary.

In keeping with the move away from capital punishment across Europe at this time, executions for forging and uttering bank notes declined in Scotland during the period examined. Importantly, though, the punishment of these offences with death had effectively ceased before 1832, when the legislature proclaimed that forgery was no longer a capital crime.¹⁴⁹ In Scotland, the power to punish forgery capitally was considered discretionary, and the punishment of those who forged bank notes in this way had proceeded on a common law basis.¹⁵⁰ Yet the role of the Lord Advocate as master of the instance meant that prosecutorial discretion was at least as important, indeed more so, than judicial discretion or royal pardons in determining whether the death penalty would apply. If the prosecutor chose to “restrict the libel”, this would remove the option of imposing a capital sentence altogether. It seems this practice was frequently used; and, according to Alison, “the humane practice of restricting the libel renders it immaterial in most cases what forgeries are capitally punishable”.¹⁵¹ The result would be that the accused would be punished with transportation or occasionally with penal servitude, which appears as a sentence for uttering forged notes long before the Penal Servitude Act of 1853.¹⁵²

There is no record of how often the prosecutor restricted the libel in cases of forgery, or forged bank notes, and constructing this would require detailed consultation of the archival holdings.¹⁵³ It is possible to gain some insight from a Parliamentary return from 1832, however. This details the number of people tried for nominally capital offences, including forgery and uttering forged documents, between 1827 and 1831, and reveals that in the vast majority of cases (around 90% each year) the prosecutor restricted the libel.¹⁵⁴ Of the sixty-seven cases of forgery listed in the return, the prosecutor restricted the libel in sixty-two; and of the 119 cases of uttering forged documents, the prosecutor restricted the libel in 115. This is not surprising, as there were benefits to the prosecutor in limiting punishment in this way. The likelihood of conviction approximately doubled when the libel was restricted, giving the prosecution a conviction rate of more than 90%.¹⁵⁵

149 Forgery, Abolition of Death Act 1832 (2 & 3 Will IV c123). Capital punishment for the few remaining forms of forgery not covered by this Act was abolished by the Forgery Act 1837 (7 Will IV c84).

150 Hume, *Commentaries* (1797), pp. 197, 200; Hume, *Commentaries* (1844), pp. 138, 140.

151 Alison, *Principles*, p. 393.

152 In each of the following cases, a sentence of penal servitude for life is recorded: *James Devlin and Alexander Leith*, 1828 (JC26/1828/210); *Paul Selfridge*, 1828 (JC26/1828/248); *Neil Brodie and James McGarvey*, 1828 (JC26/1828/89); *Duncan Ferguson*, 1831 (JC26/1831/494); *James Stewart*, 1831 (JC26/1831/492). In light of this, the sentence given to the fictional dark girl dressed in blue seems incredibly lenient.

153 Rachel Bennett has considered pardons and found that between 1740 and 1834 twenty-six men were executed for forgery (she does not specify what kinds of forgery) and a further eighteen men and two women were sentenced to death but then subsequently pardoned (Bennett, *Capital Punishment and the Criminal Corpse in Scotland, 1740–1834*, p. 49). Alison writes that “of late years” the practice of restricting the libel and imposing transportation had become “settled practice” in all cases except those involving “great delinquency” (Alison, *Principles*, p. 400).

154 PP 1831–2 [499] *Return of Number of Persons Brought to Trial for Crimes of a Capital Nature before the High Court and Circuit Courts, 1827–1831*.

155 The conviction rates for restricted and unrestricted libels for 1827 were 91.7% and 56%, for 1828 they were 97.2% and 40%, for 1829 they were 95.3% and 58.9%, for 1830 they were 96.7% and 42.9%, and for 1831 they were 93.6% and 48.6%.

Two additional techniques for maximising the chance of conviction that appear within the prosecution of forged notes are worth noting. The first is the use of the Bank Notes (Forgery) Act of 1805 – which, as discussed above, was passed after Richard Mendham managed to escape conviction in 1804 – to elicit guilty pleas. A similar but earlier piece of legislation had been used in England to negotiate plea bargains by the Bank of England. By charging defendants with both capital forgery or uttering and the less serious offence of possessing forged notes, the bank could encourage confessions to the latter, and this helped to obtain convictions in cases where there would otherwise be a marginal chance of success.¹⁵⁶ Within my sample, there are three cases that suggest that something comparable occurred in Scotland. In these cases, the accused were charged with the common law crimes of forgery, uttering or causing forgery or uttering of notes of the Bank of England but also with the statutory possession offence found in section 6 of the 1805 Act. When the accused confessed to the statutory offence, the Lord Advocate dropped the uttering charges, and the jury accordingly convicted on the basis of the confession.¹⁵⁷ Research by Randall McGowen shows that the bank and its solicitors were, in 1817, involved in advising the Scottish prosecution authorities to adopt their tactics and that the Lord Advocate was not pleased with the interference, making this clear in a letter to the Home Secretary, Lord Sidmouth, in 1819. The timing of the correspondence uncovered by McGowen certainly fits with the cases located by my study.¹⁵⁸

The other prosecutorial tactic that created tension was promising an accused that he or she would not have to face trial in return for turning “King’s evidence”, i.e. for testifying for the prosecution. This tactic first crops up in my sample in the 1800 trial of Samuel Bell and William Mortimer, during which a witness, described as imprisoned for “having some notes”, was asked by defence counsel if he knew what King’s evidence was. Giving an explanation, the lawyer asked more directly: “Was [*sic*] you ever informed that if you told the truth you would be safe?” The prisoner replied he “never hard [*sic*] much about safety”.¹⁵⁹ Seventeen years later, in the trial of William McKay and James MacNeil for uttering notes purporting to be of the Greenock Banking Company, the town clerk of Glasgow stated that an agent for the bank had told MacNeil, in confidence and before he gave his declaration (his statement), that it would be better for him, if he had accomplices, to speak out and confess the truth. This was allegedly done under the encouragement that it would save MacNeil from trial. In the clerk’s opinion, this exchange was intended to give the impression that if MacNeil provided incriminating evidence he would be admitted as King’s evidence. The trial coverage also states that MacNeil was “distinctly told”, though it is not clear by whom, that no-one with whom he was communicating

156 McGowen, “Managing the gallows”; Palk, “Fit objects of mercy”. The legislation used seems to have been the Bank Notes Forgery Act 1801.

157 *Francis Watson*, 1817 (JC26/1817/187; JC8/12/35); *William Campbell and Thomas Watson*, 1817 (JC26/1817/188; JC8/12/39); *Frances McCay* (JC26/1819/42; JC8/14/79).

158 McGowen does not provide names of the accused, and I have not been able to visit the archives he used (McGowen, “Managing the gallows”, at 273). A digitised version of the Committee for Law Suits Minutes, sent to me by email by staff at the Bank of England archive, suggests that the 1819 case was *Frances McCay*.

159 “High Court of Justiciary”, *Caledonian Mercury* (24 July 1800).

could make any bargain with him. Nevertheless, according to the clerk's testimony, MacNeil had been clear that he relied on a promise that he would not be brought to trial. The prosecutor is reported to have withdrawn two other statements given by MacNeil in response to concerns that the clerk's evidence showed the declarations were not freely and voluntarily given.¹⁶⁰

Something similar occurred in the 1850 trial of Archibald and Susan Miller, where the court held that it was not a good plea in bar of trial that the procurator fiscal had obtained information from the accused under a pledge that she would not face trial. The court allowed the fiscal to be examined, who testified that no declaration had been taken from the accused who was seeking to prevent the trial. In allowing the examination, however, the Lord Justice-Clerk (Hope) emphasised that

we by no means intend to countenance the notion that the Procurator-fiscal can, without authority, tie up the hands of the Public Prosecutor. It is not the policy of the law to give such a power to any inferior officer, and the parties giving information to the Procurator-fiscal, must take their risk as to any pledge he may be so ill-advised to give.¹⁶¹

These prosecutorial strategies might have been motivated, in part, by the difficulties in proving offences relating to counterfeit notes,¹⁶² but they also make sense in the light of shifting attitudes towards the crimes and changing opinions on the appropriateness of punishing them with death. Especially in cases where there was no confession by the accused, jurors' attitudes towards convicting a person they knew could then be executed were crucial. The fact that in Scotland a criminal verdict was determined by a bare majority made prevailing views on the propriety of harsh punishments particularly significant; within this system, jury feelings about the severity of the sentence could fairly easily shape their decision to convict or acquit.¹⁶³ It is important, therefore, that over the course of the period under examination the impression grew that punishing forgery with death was both unmerited and ineffectual.¹⁶⁴ This change in sentiment is evident in the reports of convictions and executions for forgery and uttering, which start to take on a more sympathetic tone. In John Currie's era, near the beginning of the eighteenth century, a broadside relating to the execution of a Mrs McLeod for forging bills is jesting and largely

160 "Circuit intelligence", *Caledonian Mercury* (28 April 1817).

161 (1850) J Shaw 228. The role of the procurator fiscal, and indeed the banks, in investigating forgeries in Scotland needs further investigation. Banks sometimes appeared as co-prosecutors in the late eighteenth century – it is possible that, among other reasons, this was to do with cases of forged bank notes appearing in the Court of Session. Hume notes that it was reported (by Lord Royston) that the Court of Session heard the case against *Wallace* in 1742 for forging bank notes (Hume, *Commentaries* (1797), p. 233).

162 See McGowen, "Managing the gallows", at 247.

163 Riggs, "Prosecutors, juries, judges", at 183. An example of jurors acquitting in the face of strong evidence, though of course it is impossible to know their motives, is the case of *Alexander Thomson*. When the jury acquitted in a "plurality of voices", the Lord Justice-Clerk said that he did not usually "animadvert on the decisions of Juries, but he could not help, in this case, saying, if he had been one of the Jury he certainly would have stood among the minority, as he never heard clearer proof". Lord Hermand concurred. "Edinburgh news continued", *Caledonian Mercury* (10 September 1812).

164 See, for example, Handler, "Forgery and the end of the 'Bloody Code'".

condemnatory, portraying her offences as sins that she might have avoided had she made the effort.¹⁶⁵ As in Currie's case, McLeod's motivation is described as greed.¹⁶⁶ Little compassion is shown in the report of Samuel Bell's execution for issuing forged notes in 1800 either. This broadside suggests that Bell's inability to read or write was part of a ruse to dupe people with whom he had dealings and to shift the blame for his crime, once detected, on to others. Although one of the mooted reasons for Bell's illiteracy was the "smallness of his father's income", this is essentially irrelevant to the narrative presented, and his fate is described as a warning to those who might be tempted to follow his example.¹⁶⁷

By contrast, a broadside recounting the execution of William Swan in 1821 for uttering two forged notes, after having been previously admonished for theft and forgery, ends with the comment that "it is much to be lamented that the many examples which have been made have not in the least tended to put a stop to this unpardonable crime, the commission of which struck [*sic*] at the very life and soul of a commercial country like this".¹⁶⁸ Though the crime is still described as unpardonable, the inefficacy of capital punishment is acknowledged directly, and there is a note of regret. It may be significant that Swan was the kind of respectable man whose downfall, it has been suggested, helped to create a politically salient association between the capital punishment of forgery and injustice.¹⁶⁹ Having been "brought up to the profession of the law" and served as a clerk to writers in Glasgow, Swan was described as a "fine looking man", "genteelly dressed in black" on the day he died. The same cannot be said about John McCanna and Joseph Richardson, though, who were hanged for uttering 122 forged notes in 1823. Richardson was said to have an unrepachable character but rented a farm, and so was not of the same class as Swan, and McCanna was an Irishman who was deemed responsible for orchestrating the crime. Both Richardson and his mother are reported to have fainted on hearing his sentence and saying farewell, and the parting of McCanna and his wife is described as "a scene truly distressing". The execution drew 10,000 people and was said to have inspired "a very general feeling of sympathy from the surrounding multitude".¹⁷⁰

Articles published as the campaign to abolish the death penalty intensified¹⁷¹ were even more explicit about the perceived failings of the punishment. For example, a piece in the *Edinburgh Review* by a barrister in London highlighted

165 "A Letter from Doctor Dalgleish to his Patient Mrs M'Leod, and her Answer" (1727) is a "humorous" exchange between a woman convicted of forging bills and a hangman (<https://digital.nls.uk/broadsides/view/?id=15816&transcript=1>). Another broadside relating to this woman and her alleged crimes refers to her repeatedly as a whore, and she is depicted as describing her misconduct as sinful, warning others not to follow her example (<https://digital.nls.uk/broadsides/view/?id=15819>).

166 A third broadside about Mrs McLeod has her exclaiming: "sinful ways I did pursue, for to augment my store" (<https://digital.nls.uk/broadsides/view/?id=15818>).

167 <https://digital.nls.uk/broadsides/view/?id=16641>

168 <https://digital.nls.uk/broadsides/view/?id=16560>

169 Handler, "Forgery and the end of the 'Bloody Code'", at 694.

170 <https://digital.nls.uk/broadsides/view/?id=14699>; <https://digital.nls.uk/broadsides/view/?id=14698>

171 The petitions and legislative attempts to abolish the capital punishment of forgery were covered in Scottish newspapers, e.g. "Imperial Parliament", *Aberdeen Journal* (26 May 1830); "House of Lords – June 10", *Caledonian Mercury* (14 June 1830); "House of Lords – June 22", *Caledonian Mercury* (26 June 1830).

the practical difficulties caused by the disconnect between popular opinion and the law of forgery, listing the reluctance of victims to report offences, the unwillingness of juries to convict, and the ineffectual deterrence of an inconsistently applied sanction as among the main problems.¹⁷² Another article in *Blackwood's Edinburgh Magazine* mentions these factors but also lays some blame at the feet of the banks, who might have found better ways to protect the public from the fraud of counterfeit notes instead of relying on the “ready penalty of death”.¹⁷³ More than this, however, the article offers some reflections on the causes of crime, arguing that the large majority of offenders were driven to offend by poverty and ignorance and were lacking moral guidance on account of the deleterious effects of wealth inequality on community cohesion and the generally corrosive effects of “great and sudden wealth”. In the opinion of the writer, treating these kinds of offenders with retributive brute force was not only ineffective – the threat of law being but one source of fear and desperation among many – but also a failure of moral courage. “Let it be thought, too, for what end we are to wield vengeance against them,” he wrote, “for the defence of a privilege which we inherit in virtue of their exclusion from it; and their exclusion from which is the first cause of the evil under which they lie.”¹⁷⁴

6 CONCLUSION

These provocative comments on the connection between the unequal distribution of assets and the state's standing to punish may not have been typical for their time, but they reinforce one of the main findings of this first examination of the problem of counterfeit currency, and the punitive responses it provoked, in Scotland. Through a combination of quantitative and qualitative analysis, I have shown that the economic and social circumstances of the country played a key role in shaping developments in the three areas of change I have examined. As counterfeiting currency rose in correlation with periods of economic depression, judges and legislators reformed legal doctrine so as to more effectively repress the danger these crimes posed in a rapidly commercialising society. As the patterns of offending show, however, these legal responses were not capable of fully curbing the threat, and an examination of the demographic profile of the offenders offers some reasons as to why this might be. For some of the most deprived people in an increasingly unequal society, there may have been relatively few alternatives. The inability to deter offenders in turn helps explain changing attitudes to the punishment of counterfeit currency offences, particularly those relating to forging and uttering notes. Confronted with the inefficacy of harsh sanctions, and in the face of their growing unpopularity, prosecutors developed techniques for negotiating convictions, and judges softened and

172 “Anti-Draco; or, Reasons for abolishing the punishment of death in cases of forgery”, *Edinburgh Review* (1831), 398–410.

173 “On the punishment of death”, *Blackwood's Edinburgh Magazine* (1830), 865–78, at 868. Another article, written in 1824, argued that an improvement in bank notes would have taken away the necessity and right of punishing forgery with death (“Thoughts on various subjects of political economy”).

174 “On the punishment of death”, 877.

nanced the sentences they issued.¹⁷⁵ By the middle of the nineteenth century, and in the wake of the significant social, economic and legal changes that had occurred, both the spectre of a solo counterfeiter striving to make the world his bank and the prospect of banishing him for life for attempting the feat were relics of the past.

APPENDIX

Classification of occupations that appear within the data sample:¹⁷⁶

<i>Occupation</i>	<i>Job</i>
Agriculture	farmer, tenant, cattle dealer, crofter, horse dealer, overseer of land, ploughman, horse breaker, farrier, horse shoer, tacksman, smallholder, cattle driver, sheep dealer, shepherd
Clerical	clerks, officer / supervisor of excise, assistant excise officer, postmaster, bookkeeper, surveyor and collector of excise, depot paymaster
Mercantile	merchant, accountant, banker, shipping agent, partner, factor, cashier, auctioneer, teller, broker
Military	out pensioner of Chelsea College or Hospital, soldier, drummer in infantry, private, deserter, gunner
Nautical	master of sloop, mariner, sea captain, seaman, sailor
Professional	writer, schoolmaster, druggist, surgeon, sheriff officer, sheriff clerk depute, messenger at arms, reverend, sergeant, teacher, writer to signet, divinity student, medical student, deputy comptroller of HM Customs, police officer, optician, sheriff's concurrent, law apprentice, minister, prison governor, notary public
Textile manufacture	weaver, calico printer, cotton spinner, engraver, muslin sewer, muslin manufacturer, yarn maker, lapper, dresser steam loom factory, tambourer, linen draper, steam loom weaver, cotton mill worker, hand weaver, silk winder, woollen draper, linen weaver, twister, bleacher, pirn winder, pattern cleaner, wool sorter, tenter, veiner of muslin, draper's assistant, block cutter, warper, pattern drawer, muslin clipper, slubber
Trade	painter, butcher, starch manufacturer, paper stainer, tailor, pointer, joiner, shoemaker, dyke builder, miller, dyker, innkeeper, potter, mason, paper manufacturer, foreman, carpenter, gardener, baker, grocer, sawyer, trader in victual, cooper, manufacturer, poulterer, journeyman, flesher, keeper of lodging house, stocking maker, tinsmith, spirit dealer, milliner, fish curer, dyer, glazier, publican, vintner, wood dealer, pressman, grain dealer, slater, umbrella maker, bird seller, blacksmith, tanner, smith, wright, nailer, plumber, shopkeeper, nailmaker, watchmaker, slater, cabinet maker, builder, confectioner, furrier, cook, cork cutter, glover, matchmaker, brass founder, bricklayer, brewer, portrait painter, hatter, last maker, turner, upholsterer, book binder, saddler, cap maker, jewellery dealer,

¹⁷⁵ Whereas in 1817 the penalty for uttering one note was considered to be the same as for uttering fifty (comment by Lord Gillies in the trial of William McKay: "Circuit intelligence", *Caledonian Mercury*, 28 April 1817), by the time Alison's *Principles of the Criminal Law of Scotland* was published, uttering a single note was generally punished with seven years' transportation, and those who were considered to be merely a "cat's paw" were punished more lightly. Traffickers, on the other hand, could expect harsher sentences (Alison, *Principles*, p. 399).

¹⁷⁶ Occupations are classified according to a slightly modified version of a schema that appears in Smout, *History of the Scottish People* that is itself based on occupations in Glasgow in 1831 (p. 395).

<i>Occupation</i>	<i>Job</i>
Trade <i>(continued)</i>	pewterer, fruit dealer, coach maker, cigar trader, brick and tile maker, moulder, basket maker, clothier, lathsplitter, coach trimmer, trunk maker, spectacle vendor and repairer, boiler maker, publisher, trouser maker, coal master, spoon and baster maker, flax dresser, coach proprietor, rivet maker, wood rafter, book canvasser, gun maker, printer, shawl fringer, chain maker, sundial maker
Unskilled and casual	servant, carrier, travelling merchant, messenger, dealer in old clothes, pedlar, apprentice (general), travelling chapman, seller of chapbooks, doorkeeper, hawker, unemployed, traveller, labourer, porter, packman, anyone where itinerant is mentioned e.g. itinerant papermaker, hind, farm labourer, farm worker, stabler, collier, chapman, factory worker, travelling cloth seller, warehouseman, workman, carter, rat catcher, mole catcher, beggar, dressmaker, stagecoach guard, smuggler, letter carrier, dealer in small ware, groom, travelling seller of sweets, shopboy, tollkeeper, waiter, town officer, washerwoman, second-hand clothes dealer, sugar house worker, hostler, poster sticker, housekeeper, contractor, outdoor worker, cottar, meal monger, stableman, driver, bookseller assistant, street sweeper, house cleaner, miner, mill worker, hand sewer